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सं. 29] नई दिल्ली, जुलाई 13—जुलाई 19, 2003, शनिवार/आषाढ़ 22—आषाढ़ 28, 1925
No. 29] NEW DELHI, JULY 13—JULY 19, 2003, SATURDAY/ASADHA 22—ASADHA 28, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए
सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

राष्ट्रपति सचिवालय

नई दिल्ली, 15 जुलाई, 2003

का. आ. 1955.—केंद्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 तथा तब के भारत के आवास एवं निर्माण मंत्रालय की अधिसूचना सं. का.आ. 720 दिनांक 10 मार्च, 1973 के अधिक्रमण में धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे सारणी के स्तम्भ (1) में उल्लिखित अधिकारी को, जो सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है। यह अधिकारी उक्त सारणी के स्तम्भ (2) में तत्स्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों के प्रवर्गों के संबंध में उक्त अधिनियम के द्वारा या उसके अधीन संपदा अधिकारियों को अपने क्षेत्राधिकार की स्थानीय सीमाओं में प्रदत्त शक्तियों का प्रयोग और उन पर अधिरोपित कर्तव्यों का पालन करेगा।

1865 GI/2003

सारणी

अधिकारी पदनाम	सरकारी स्थानों के प्रवर्ग एवं क्षेत्राधिकार की स्थानीय सीमाएं
1	2
श्री नितिन वाकणकर	स्थानों में नई दिल्ली,
राष्ट्रपति के उप प्रेस सचिव	शिमला (हि.प्र.)
राष्ट्रपति सचिवालय	देहरादून (उत्तरांचल) एवं बोलाराम, सिकंदराबाद (आं.प्र.) में स्थित राष्ट्रपति संपदा समाविष्ट हैं।

[फा. सं. डी.-11020/1/90-ई.बी.ए.]

सतीश माथुर, निदेशक

PRESIDENT'S SECRETARIAT

New Delhi, the 15th July, 2003

S.O. 1955.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and in supersession of the then Government of India in the Ministry of Works and Housing Notification No. S.O. 720 dated the 10th March, 1973, the

(5041)

Central Government hereby appoints the officer mentioned in column (1) of the Table below being a Gazetted Officer of the Government to be the Estate Officer for the purposes of the said act who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act within local limits of his respective jurisdiction in respect of the public premises specified in corresponding entry in column (2) of the said table.

Designation of the Officer	Categories of Public Premises and local limits of jurisdiction
1	2
Shri Nitin Wakankar Deputy Press Secretary to the President President's Secretariat	Premises comprising the President's Estate in New Delhi, Shimla (Himachal Pradesh), Dehradun (Uttaranchal) and Bolarum, Secunderabad (Andhra Pradesh),

[F. No. D-11020/1/90-EBA]
SATISH MATHUR, Director

गृह मंत्रालय

नई दिल्ली, 8 जुलाई, 2003

का. आ. 1956.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालय में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के फलस्वरूप उन्हें एतद्वारा अधिसूचित करती है :—

कार्यालय पुलिस महानिरीक्षक (परिचालन),
केन्द्रीय रिजर्व पुलिस बल,
जम्मू (जम्मू व कश्मीर)।

[फा. सं. 12017/1/2002-हिन्दी]
राजेन्द्र सिंह, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 8th July, 2003

S.O. 1956.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office of the Ministry of Home Affairs where the percentage of Hindi knowing staff has gone above 80% :

Office of Inspector General of Police (Ops),
Central Reserve Police Force,
Jammu (Jammu & Kashmir).

[F. No. 12017/1/2002-Hindi]
RAJENDRA SINGH, Director (OL)

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 9 जुलाई, 2003

का. आ. 1957.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2004 तक दि कच्छ जिला को-आपरेटिव केन्द्रीय बैंक लि., गुजरात पर लागू नहीं होंगे।

[फा. सं. 1(15)/99-ए.सी.]
मंगल मरांडी, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 9th July, 2003

S.O. 1957.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of Sub-section (1) of Section 11 of the said Act shall not apply to The Kachchh District Central Co-operative Bank Ltd., Gujarat from the date of publication of this notification in the Official Gazette till 31 March, 2004.

[F. No. 1(15)/99-AC]
MANGAL MARNDI, Under Secy.

नई दिल्ली, 11 जुलाई, 2003

का. आ. 1958.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, वित्त मंत्रालय, आर्थिक कार्य विभाग, (बैंकिंग प्रभाग), नई दिल्ली में सचिव (बैंकिंग एवं बीमा) श्री एन.एस. सिसोदिया को तत्काल प्रभाव से और अगले आदेश होने तक श्रीमती विनीता राय के स्थान पर भारतीय स्टेट बैंक के केन्द्रीय बोर्ड में निदेशक के रूप में नामित करती है।

[फा. सं. 9/3/2002-बीओ-1]
रमेश चन्द, अवर सचिव

New Delhi, the 11th July, 2003

S.O. 1958.—In exercise of the powers conferred by clause (e) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, hereby nominates Shri N.S. Sisodia, Secretary (Banking & Insurance), Ministry of Finance, Department of Economic Affairs, (Banking Division), New Delhi as a Director on the Central Board of the State Bank of India with immediate effect and until further orders *vice* Smt. Vineeta Rai.

[F. No. 9/3/2002-BO-1]
RAMESH CHAND. Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 3 जुलाई, 2003

का. आ. 1959.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 के उपखण्ड (2) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय चिकित्सा परिषद् के परामर्श के पश्चात् उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती हैं, अर्थात् :—

उक्त अनुसूची में महाराष्ट्र स्वास्थ्य विज्ञान विश्वविद्यालय, नासिक के समक्ष शीर्षक “मान्यता प्राप्त आयुर्विज्ञान अर्हता” के अंतर्गत “आर्थोपेडिक्स में डिप्लोमा” और उससे संबंधित प्रविष्टि के बाद पंजीकरण के लिए संक्षिप्ताक्षर शीर्षक के अंतर्गत निम्नलिखित जोड़ा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	पंजीकरण के लिए संक्षिप्ताक्षर
“आयुर्विज्ञान एवं शल्य विज्ञान एम.बी.बी.एस. (यह अर्हता तभी स्नातक	एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह दिसम्बर 2002 में या उसके पश्चात् प्रदान की गई हो)”

[सं. वी. 11015/4/2003-एम ई (नीति-I)].
पी.जी. कलाधरन, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 3rd July, 2003

S.O. 1959.—In exercise of the powers conferred by Sub-section (2) of Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule, against the Maharashtra University of Health Sciences, Nashik, under the heading “Recognised Medical Qualification”, after the entry, ‘Diploma in Orthopaedics’ and the entry relating thereto under the heading ‘Abbreviation for registration’, the following shall be inserted, namely :—

Recognised medical qualification	Abbreviation for registration
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“Bachelor of Medicine and Bachelor of Surgery	MBBS (This qualification shall be a recognised Medical qualification when granted in or after December, 2002)”
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[No. V. 11015/4/2003-ME (Policy-I)]
P. G. KALADHARAN, Under Secy.

कृषि मंत्रालय

(कृषि एवं सहकारिता विभाग)

नई दिल्ली, 18 जून, 2003

का. आ०. 1960.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, कृषि एवं सहकारिता विभाग, कृषि मंत्रालय के प्रशासनिक नियंत्रणाधीन राष्ट्रीय सहकारी विकास निगम, नई दिल्ली के निम्नलिखित कार्यालय को जिसके 80% कर्मचारीवृन्द ने हिन्दी का कार्यसाधन ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

क्षेत्रीय निदेशालय,
राष्ट्रीय सहकारी विकास निगम,
आलोक भारती काम्प्लेक्स,
प्रथम तल, शहीद नगर,
भुवनेश्वर-751007

[सं. 3-2/2002-हिन्दी नीति]
सतीश चन्द्र, संयुक्त सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 18th June, 2003

S.O. 1960.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office of the National Cooperative Development Corporation, New Delhi under the Administrative control of the Department of Agriculture and cooperation, Ministry of Agriculture, 80% staff whereof have acquired the working knowledge of Hindi :—

Regional Directorate,
National Cooperative Development Corporation
Alok Bharti Complex, 1st floor,
Shaheed Nagar,
Bhubneshwar—751007

[No. 3-2/2002-Hindi Neeti]
SATISH CHANDER, Jr. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 11 जुलाई, 2003

का. जा. 1961.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा नीदरलैंड्स मीटइंस्टीयूट (एनएमआई) जो नीदरलैंड में इस प्रयोजन के लिए एक राष्ट्रीय निकाय है द्वारा अनुदत्त और अनुमोदित पैटर्न अनुमोदन और जांच परिणाम के साथ उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ए एंड डी इंस्ट्रुमेंट्स लिमिटेड, अखिलेश्वर, आक्सफोर्ड ओएक्स 143वाई एस यूनाइटेड किंगडम द्वारा विनिर्मित और भारत में विक्रय के पहले या पश्चात् उपकरण के किसी परिवर्तन के बिना मैसर्स एवान वेजिंग सिस्टम प्रा. लि. 15, दूसरा तल, बी विंग, कमल कुंज, मेघा कॉर्पोरेटिव हाउसिंग सोसायटी लि., एम.वी. रोड, इरला ब्रिज अंधेरी (प.) मुंबई-400058 द्वारा विपणित विशेष यथार्थता वर्ग (यथार्थता वर्ग 1) वाले इलेक्ट्रॉनिक अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके मॉडल का नाम "एंड" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन विह्न आई एन डी/13/02/33 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है।



मॉडल (आकृति देखिए) जो आर-ई सी सिरीज का अस्वचालित तोलन उपकरण है जिसके पास 120 ग्राम \leq अधिकतम \leq 300 ग्रा. की रेंज में उसकी क्षमता है और सत्यापन मापमान अंतराल 1 मि.ग्रा. (ई) 1 मि. ग्रा. या ई = डी या ई = 10 डी या ई = 100 डी के बराबर या अधिक है, जो डी मापमान अंतराल का प्रतिनिधित्व करता है। विभाजन (एन) की अधिकतम सं. 300000 (एन \leq 300000) के बराबर या कम है। प्रदर्श यूनिट द्रव क्रिस्टल डिजिट प्रकार का है। उपकरण 230 वोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

[फा. सं. डब्ल्यू एम 21(349)/2001]

पी.ए. कृष्णामूर्ति, निदेशक, विधिक माप विभाग

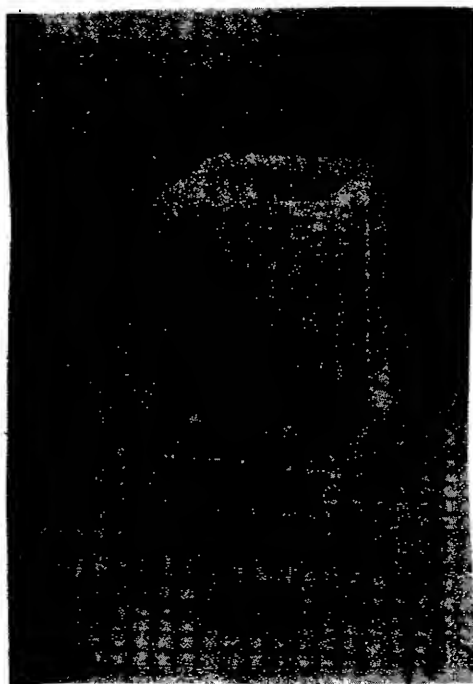
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 11th July, 2003

S.O. 1961.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the third proviso to sub-section (3) and sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of electronic weighing instrument with digital display (table top type) having brand name "AND" and of special accuracy class (Accuracy class-I) (hereinafter referred to as the model), manufactured by M/s. A&D Instruments Ltd., Abingdon Science Park, Abingdon, Oxford OX14 3YS, United Kingdom and marketed in India without any alteration of Instrument before or after sales by M/s. Avon Weighing Systems Pvt. Ltd., 15, 2nd Floor, B Wing, Kamal Kunj, Megha Co-op. Hsg. Soc. Ltd., S.V. Road, Irla Bridge, Andheri (W), Mumbai-400058 and which is assigned the approval mark IND/13/02/33;



The Model (see the figure) is a non-automatic weighing instrument of GR-EC series having its capacity in the range of $120 \text{ g} \leq \text{Max} \leq 300 \text{ g}$ and value of verification—scale—interval is greater than or equal to 1 mg ($e \leq 1 \text{ mg}$) or $e = d$ or $e = 10d$ or $e = 100d$, where d represents the scale interval. The maximum no. of division (n) is less than or equal to 300,000 ($n \leq 300,000$). The display unit is of liquid crystal diode type. The instruments operates on 230 V, 50 Hz alternative current power supply.

[F. No. WM-21(349)/2001]

P.A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का. आ. 1962.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा नीदरलैंड्स मीटइंस्टिट्यूट (एनएमआई) जो कि नीदरलैंड में प्रयोजन के लिए एक राष्ट्रीय निकाय है द्वारा अनुदत्त और अनुमोदित पैटर्न अनुमोदन और जांच परिणाम के साथ उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट माप मानक और (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब: केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (3) के तीसरे परंतुक तथा उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ए एंड डी इंस्ट्रुमेंट्स लिमिटेड, अबिंगडन, सांइस पार्क, अबिंगडन, आक्सफोर्ड ओएक्स 143 वाई एस युनाइटेड किंगडम द्वारा विनिर्मित और भारत में विक्रय के पहले या पश्चात् उपकरण के किसी परिवर्तन के बिना मैसर्स एवान वेजिंग सिस्टम प्रा. लि. 15, दूसरा तल, बी विंग कमल कुंज मेधा कॉर्पोरेटिव हाउसिंग सोसायटी लि., एम.वी. रोड, इरला ब्रिज अंधेरी (प.), मुंबई-400058 द्वारा विपणित उच्च यथार्थता वर्ग (यथार्थता वर्ग 2) वाले इलेक्ट्रॉनिक अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके मॉडल का नाम "एंड" है, (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/13/02/34 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है।



मॉडल (आकृति देखिए) 600 ग्राम \leq अधिकतम \leq 6000 ग्रा. की रेंज में अपनी क्षमता वाला ई के एच श्रृंखला का अस्वचालित तोलन उपकरण है और सत्यापन मापमान अंतराल 0.1 ग्राम (ई) या ई = डी या ई = 10 डी के बराबर या अधिक है, जहां डी माप अंतराल का प्रतिनिधित्व करता है। विभाजन (एन) की अधिकतम सं. 6000 (एन \leq 6000) के बराबर या कम है। प्रदर्श एकक द्रव क्रिस्टल डायोड प्रकार का है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

[फा. सं. डब्ल्यू एम-21 (349)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th July, 2003

S.O. 1962.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the third proviso to Sub-section (3) and sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of electronic weighing instrument with digital display (table top type) having brand name "AND" and of high accuracy class (Accuracy class-II) (hereinafter referred to as the model), manufactured by M/s. A & D Instruments Ltd., Abingdon Science Park, Abingdon, Oxford OX14 3YS, United Kingdom and marketed in India without any alteration of Instrument before or after sales by M/s. Avon Weighing Systems Pvt. Ltd., 15, 2nd Floor, B Wing, Kamal Kunj, Megha Co-op. Hsg. Soc. Ltd., S.V. Road, Irla Bridge, Andheri (W), Mumbai-400058 and which is assigned the approval mark IND/13/02/34;



The Model (see the figure) is a non-automatic weighing instrument of EK-H series having its capacity in the range of $600 \text{ g} \leq \text{Max} \leq 6000 \text{ g}$ and value of verification scale interval is greater than or equal to 0.1 g ($e \geq 1 \text{ mg}$) or $e=d$ or $e=10d$ where d represents the scale interval. The maximum no. of division (n) is less than or equal to 6000 ($n \leq 6000$). The display unit is of liquid crystal diode type. The instruments operates on 230 V, 50 Hz alternative current power supply.

[F.No. WM-21(349)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

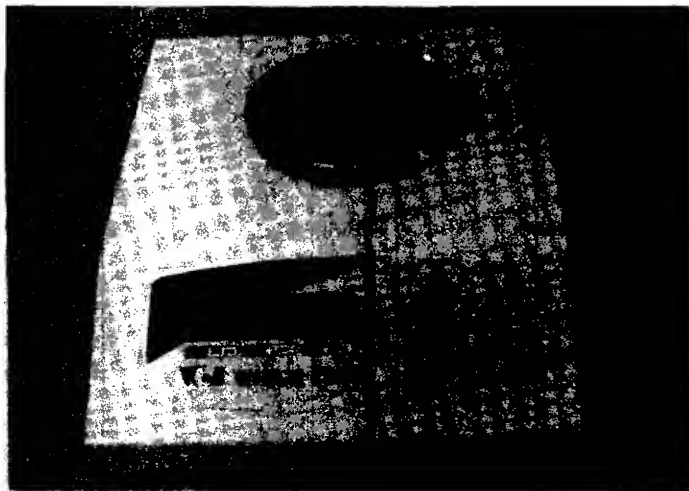
नई दिल्ली, 11 जुलाई, 2003

का० आ० 1963.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स वे केयर इंस्ट्रूमेंट, संजय नगर, जामनगर रोड, राजकोट, गुजरात द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग 2) वाले "वे केयर" श्रृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वे केयर इंस्ट्रूमेंट" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/99 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृतमापी भार सेल आधारित प्रकार का तोलन उपकरण है। इसकी अधिकतम क्षमता 11 कि. ग्रा. और न्यूनतम क्षमता 50 ग्राम है। सत्यापन मापमान अन्तराल (ई) का मान 1 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबंद करना : सीलबंद किए जाने वाले बिन्दु के अतिरिक्त स्टाम्पिंग प्लेट पर सीलबंदी कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी की जा सकती है।



और, केन्द्रीय सरकार उक्त अधिनियम धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 1 मि.ग्रा. से 50 मि. ग्रा. के "ई" मान के लिए 100 से 50,000 की रेंज में है और सत्यापन मापमान अन्तराल (एन) 100 मि.ग्रा. या अधिक के "ई" मान के लिए 5,000 से 50,000 की रेंज में है तथा जिनका "ई" मान 1×10^3 , 2×10^3 या 5×10^3 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक है या शून्य के समतुल्य है।

[फा. सं० डब्ल्यू एम 21 (208)/2001]

पी.ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

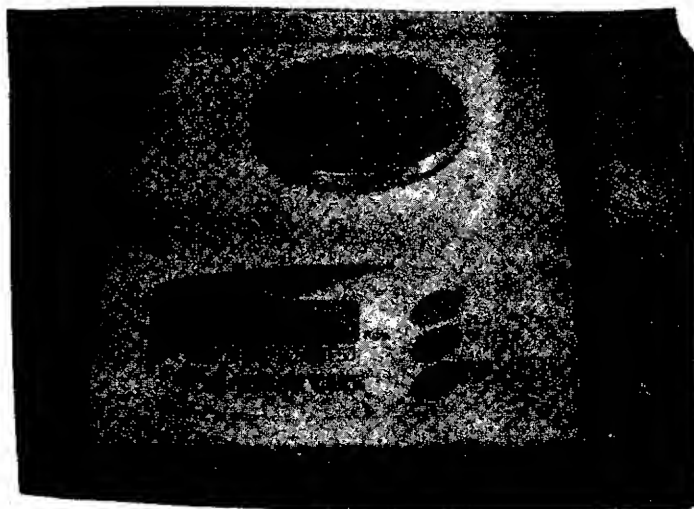
New Delhi, the 11th July, 2003

S.O. 1963 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions.

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Table top type) weighing instrument with digital indication of "Weigh care" series of High accuracy (Accuracy class II) and with brand name "WEIGH CARE INSTRUMENT" (herein after referred to as the said model), manufactured by M/s. Weigh care instrument, Sanjay Nagar Jamnagar Road, Rajkot, Gujarat. and which is assigned the approval mark IND/09/2003/99;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 11 kg. and minimum capacity of 50g. The verification scale interval (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply:

Sealing: In Addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50kg and with number of verification scale interval(n) in the range of 100 to 50,000 for 'e' value of 1 mg to 50mg and with number of verification scale interval(n) in the range of 5,000 to 50,000 for 'e' value of 100mg or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(208)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

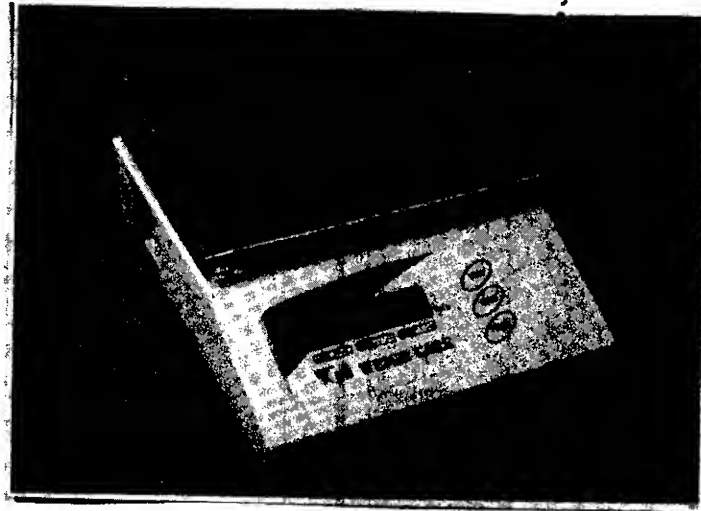
नई दिल्ली, 11 जुलाई, 2003

का० आ० 1964.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अबः, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स वे केयर इंस्ट्रूमेंट, संजय नगर, जामनगर रोड, राजकोट, गुजरात द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) वाले "वे केयर" श्रृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के माडल का, जिसके ब्रांड का नाम "वे केयर इंस्ट्रूमेंट" है (जिसे इसमें इसके पश्चात् उक्त माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/100 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है;

उक्त माडल (नीचे दी गई आकृति देखें) विकृतमापी टाइप्ड आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अन्तराल (ई) का मान 5 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;

सीलबंद करना : सीलबंद किए जाने वाले बिन्दु के अतिरिक्त स्टाम्पिंग प्लेट पर सीलबंदी कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी की जा सकती है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित माडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 100 मि.ग्रा. से 2 मि. ग्रा. के "ई" मान के लिए 100 से 10,000 की रेंज में है और सत्यापन मापमान अन्तराल (एन) 5 ग्राम या अधिक के "ई" मान के लिए 500 से 10,000 की रेंज में है तथा जिनका "ई" मान 1×10^6 , 2×10^6 या 5×10^6 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक है या शून्य के समतुल्य है।

[फा. सं० डब्ल्यू एम 21 (208)/2001]

पी.ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

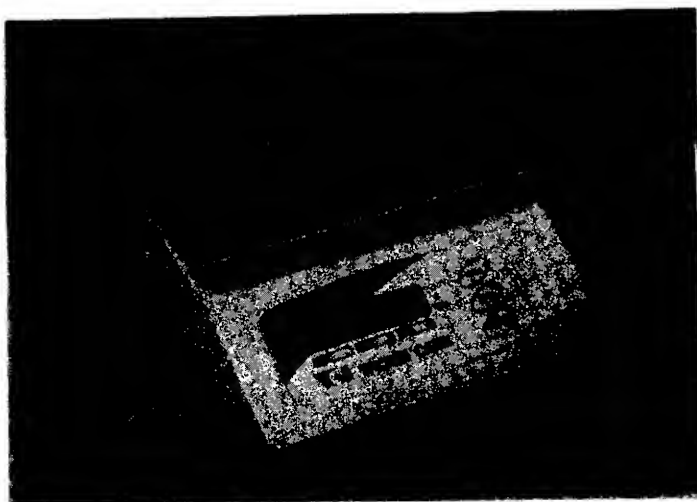
New Delhi, the 11th July, 2003

S.O. 1964. —Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Table top type) weighing instrument with digital indication of "Weigh care" series of medium accuracy (Accuracy class III) and with brand name "WEIGH CARE INSTRUMENT" (herein after referred to as the said model), manufactured by M/s. Weigh Care Instrument, Sanjay Nagar, Jam Nagar Road, Rajkot, Gujarat and which is assigned the approval mark IND/09/2003/100;

The said model (see the figure given below) is a strain gauge typed based weighing instrument with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50 Hertz alternate current power supply;

Sealing: In Addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by sub-section (12) of the said Section, 36 the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(208)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1965.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वे केयर इन्स्ट्रूमेन्ट, संजय नगर, जामनगर रोड, राजकोट गुजरात द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) वाले "वे केयर" शृंखला के स्वतःसूचक, अस्वचालित अंकक सूचन सहित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का जिसके ब्रांड का नाम "वे केयर इन्स्ट्रूमेन्ट" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2002/101 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृतमापी भार सेल आधारित प्रकार का तोलन उपकरण है। इसकी अधिकतम क्षमता 50 कि. ग्रा. और न्यूनतम क्षमता 100 ग्राम है सत्यापन मापमान अन्तराल (ई) का मान 5 ग्राम है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबंद करना : सीलबंद किए जाने वाले बिन्दु के अतिरिक्त स्टाम्पिंग प्लेट पर सीलबंदी कपटपूर्ण व्यवहारों के लिए मशीन को खाली से रोकने के लिए भी की जा सकती है।



और केंद्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 300 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 100 से 10000 की रेंज में है और सत्यापन मापमान अन्तराल (एन) 5 ग्राम या अधिक के "ई" मान के लिए 500 से 10000 की रेंज में है तथा जिनका "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ है जिसमें 'के' धनात्मक या ऋणात्मक पूर्णांक है या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू. एम. 21(208)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विभाग

New Delhi, the 11th July, 2003

S.O. 1965.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the self-indicating, non-automatic, (Platform type) weighing instrument with digital indication of "Weigh care" series of Medium accuracy (Accuracy class III) and with brand name "WEIGH CARE INSTRUMENT" (hereinafter referred to as the said model), manufactured by M/s. Weigh Care Instrument, Sanjay Nagar Jamnagar Road, Rajkot, Gujarat, and which is assigned the approval mark IND/09/2003/101;

The said model (figure given) is a strain gauge type load cell based weighing instrument with a maximum capacity of 50kg and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing: In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 300kg and with number of verification scale interval (n) in the range of 100 to 10,000 and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k , or 5×10^k , 'k' being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(208)/2001]

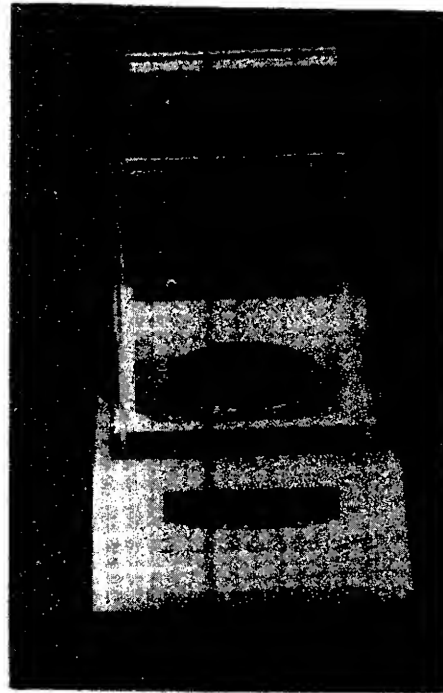
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1966.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एफ 16 सिस्टेक इंडिया लि., 404, रिमसैन एस्टेट चिन्चोली, बन्दर रोड एक्सटेंशन, लिंक रोड के सामने, मालद (पश्चिम), मुंबई-400064 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग 2) "वाले जे वाई 12 के" श्रृंखला के अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का जिसके ब्रांड का नाम "एफ एस" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2001/307 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल टेबल टाप प्रकार का अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 12 कि. ग्रा. और न्यूनतम क्षमता 20 ग्रा. है सत्यापन मापमान अन्तराल (ई) का मान 1 ग्राम है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. से अधिक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 1 मि. ग्राम से 50 मि. ग्राम के "ई" मान के लिए 100 से 50,000 की रेंज में है और 100 मि. ग्राम या इससे अधिक के "ई" मान के लिए 5000 से 50,000 की रेंज में है तथा जिनका "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ है जिसमें 'के' धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू. एम.-21(70)/2001]

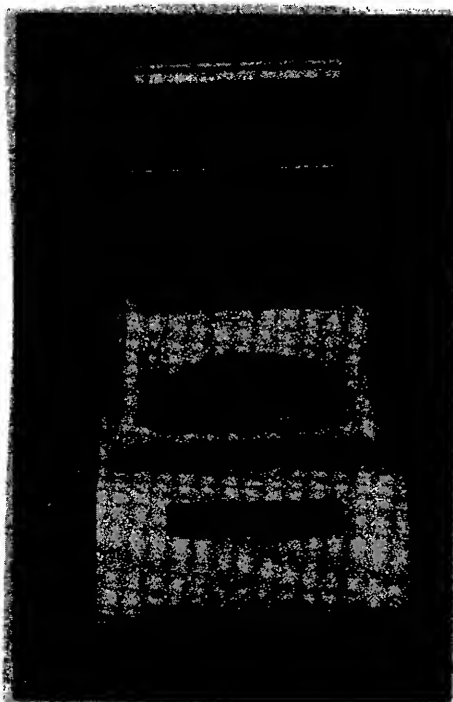
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th July, 2003

S.O. 1966.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic weighing instrument (table top type) with digital indication belonging to high accuracy (accuracy class II) of 'JY 12k' series with brand name "FS" (hereinafter referred to as the said model), manufactured by M/s. F16 Systech India Ltd., 404, Rimsan Estate, Chincholi Bunder Road Extension, Off Link Road, Malad (West), Mumbai -400064 and which is assigned the approval mark IND/09/2001/307;

The said model is non-automatic weighing instrument (table top type). The maximum capacity is 12kg and minimum capacity 20g. The value of verification scale interval 'e' is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 V, 50Hz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of the Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of said Model shall also cover the weighing instrument of similar make accuracy and performance of same series with maximum capacity up to 50kg with number of verification scale interval (n) in the range of 100 to 50000 for 'e' value of 1mg to 50 mg and with the number of verification scale interval (n) in the range of 5000 to 50000 for 'e' value of 100mg or more and with 'e' value 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(70)/2001]

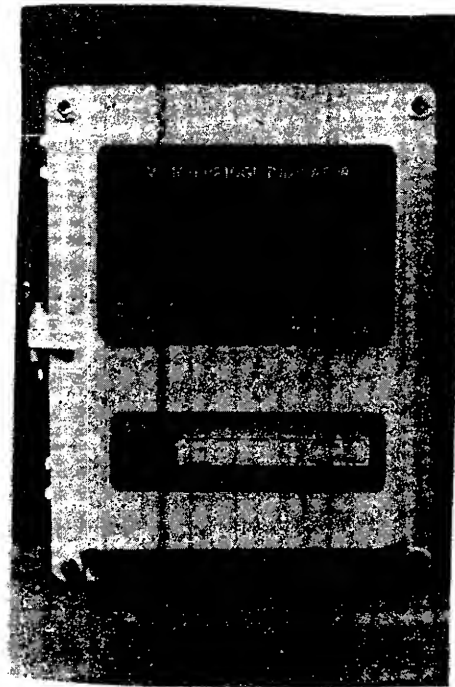
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1967.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एफ 16 सिस्टेक इंडिया लि., 404, रिमसैन एस्टेट चिन्चोली, बन्दर रोड एक्सटेंशन, लिंक रोड के सामने मालद (पश्चिम), मुंबई-400064 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले “डब्ल्यू ई” श्रृंखला के अस्वचालित अंकक सूचन सहित तोलन उपकरण (तुला चौकी) के मॉडल का जिसके ब्रांड का नाम “एफ एस” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2001/308 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल अस्वचालित वे ब्रिज (तुला चौकी) प्रकार का तोलन उपकरण है। इसकी अधिकतम क्षमता 40 टन और न्यूनतम क्षमता 200 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 10 कि.ग्राम है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 5 टन से अधिक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 5 कि.ग्रा. या इससे अधिक के “ई” मान के लिए 500 से 10,000 की रेंज में है तथा जिनका “ई” मान 1×10^3 , 2×10^3 या 5×10^3 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू. एम. 21(70)/2001]

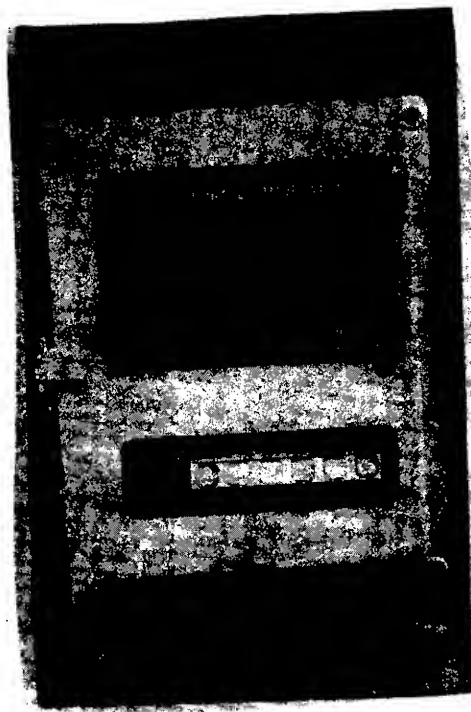
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th July, 2003

S.O. 1967.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic, weighing instrument (Weigh bridge type) with digital indication belonging to medium accuracy (accuracy class III) of 'WE' series with brand name "FS" (hereinafter referred to as the model), manufactured by M/s. F16 Systech India Ltd., 404, Rimsan Estate, Chincholi Bunder Road Extension, Off link Road, Malad (West), Mumbai -400 064 and which is assigned the approval mark IND/09/2001/ 308;

The said model is non-automatic weighing instrument (weighbridge type). The maximum capacity is 40 tonne and minimum capacity 200kg. The value of verification scale interval 'e' is 10Kg. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 V, 50Hz alternate current power supply;



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne with number of verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5kg or more and with 'e' value of 1×10^4 , 2×10^4 or 5×10^4 , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(70)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1968.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एफ 16 सिस्टेक इंडिया लि., 404, रिमसैन एस्टेट चिन्वोली, बन्दर रोड एक्सटेंशन, लिंक रोड के सामने मालद (पश्चिम), मुंबई-400064 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "सी एम 20 टी" शृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण यांत्रिकीय वे ब्रिज के लिए संपरिवर्तन किट के मॉडल का, जिसके ब्रांड का नाम "एफ एस" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2001/309 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल यांत्रिकीय वे ब्रिज के लिए अस्वचालित तोलन उपकरण किट है। इसकी अधिकतम क्षमता 20 टन और न्यूनतम क्षमता 100 कि. ग्रा. है सत्यापन मापमान अन्तराल (ई) का मान 5 कि. ग्राम है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 5 टन से अधिक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 5 कि. ग्रा. या इससे अधिक के "ई" मान के लिए 500 से 10,000 की रेंज में है तथा जिनका "ई" मान 1×10^3 , 2×10^3 या 5×10^3 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू. एम. 21(70)/2001]

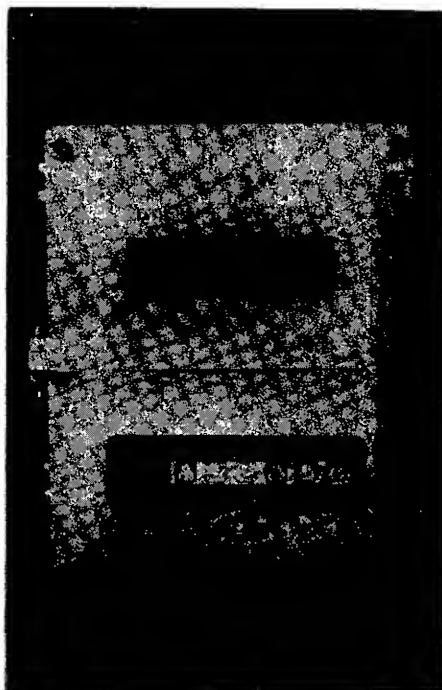
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th July, 2003

S.O. 1968.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic, weighing instrument conversion kit for mechanical weighbridge with digital indication belonging to medium accuracy (Accuracy class III) of 'CN 20T' series with brand name "FS" (hereinafter referred to as the said model), manufactured by M/s. F16 Systech India Ltd., 404, Rimsan Estate, Chincholi Bunder Road Extension, Off link Road, Malad (West), Mumbai -400064 and which is assigned the approval mark IND/09/2001/309;

The said model is non-automatic weighing instrument Conversion Kit for mechanical weigh bridge with digital indication. The maximum Capacity is 20 tonne and minimum capacity 100kg. The value of verification scale interval 'e' is 5kg. It has a tare device with a 100 percent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 V, 50Hz alternate current power supply;



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of said model shall also cover the weighing instruments of similar make accuracy and performance of same series with maximum capacity above 5 tonne with number of verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5kg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No.WM-21(70)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1969.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कैडेट्रानिक्स, 205, शिव शक्ति इन्डस्ट्रियल एस्टेट एल बी एस मार्ग घाटकोपर (पश्चिमी) मुंबई-400086 द्वारा विनिर्मित "सी ए डी बी" श्रृंखला की स्वचालित, भरण मशीन (पिस्टन भरण प्रकार) के मॉडल का, जिसके ब्रांड का नाम "कैडाट्रानिक्स" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2002/135 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त मॉडल स्वचालित भरण मशीन (पिस्टन भरण) है। इसकी अधिकतम क्षमता 5000 मि. ली. और न्यूनतम क्षमता 500 मि. ली. या इसका समतुल्य भार है। इसकी 40 थैली प्रति मिनट भरने की क्षमता है। मशीन खनिज जल, दुग्ध, अर्क या तेल जैसे मुक्त प्रवाही अस्यान द्रवित उत्पादों को भरने के लिए अभिकल्पित है। यह विकृति गेज (मापी) प्रकार भार सेल पर आधारित है तथा 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करती है।

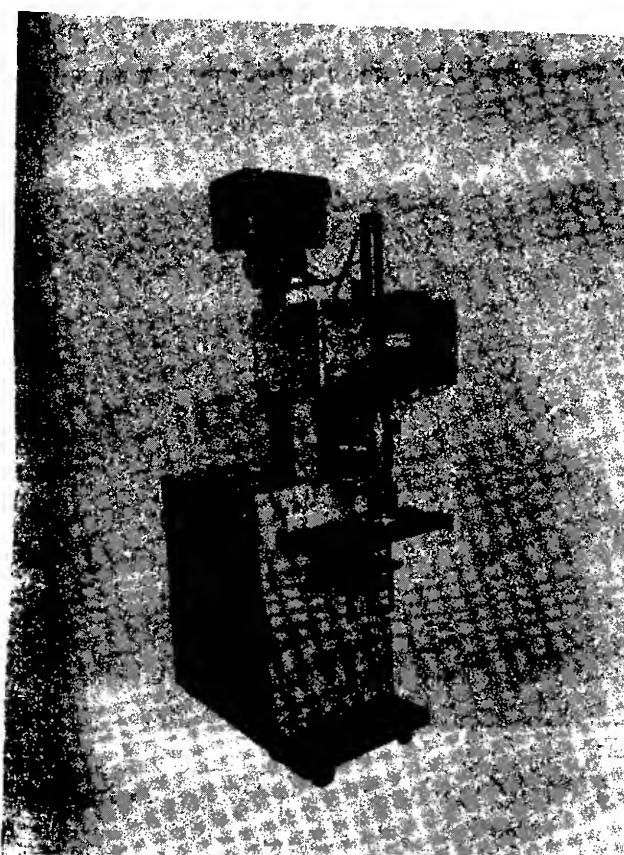
[फा.सं. डब्ल्यू. एम. 21(80)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विभाग

New Delhi, the 11th July, 2003

S.O. 1969.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of automatic filling machine (Piston filler type) of 'CAD-V' series with brand name "CADETRONICS" (herein referred to as the said Model), manufactured by M/s. Cadetronics, 205, Shivshakti Industrial Estate, L.B.S. Marg, Ghatkopar (West), Mumbai -400086 and which is assigned the approval mark IND/09/02/ 135;



The Model is an automatic filling machine (Piston filler type). Its maximum capacity is 5000ml and minimum capacity is 500ml or equivalent weight. It has a maximum fill rate of 40 pouches per minute. The machine is designed for filling free flowing non-viscous liquid products like mineral water, milk, arrack or oil. It is based on strain gauge type load cell and operates on 230 Volts and 50Hz alternate current power supply;

[F. No. WM-21(80)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

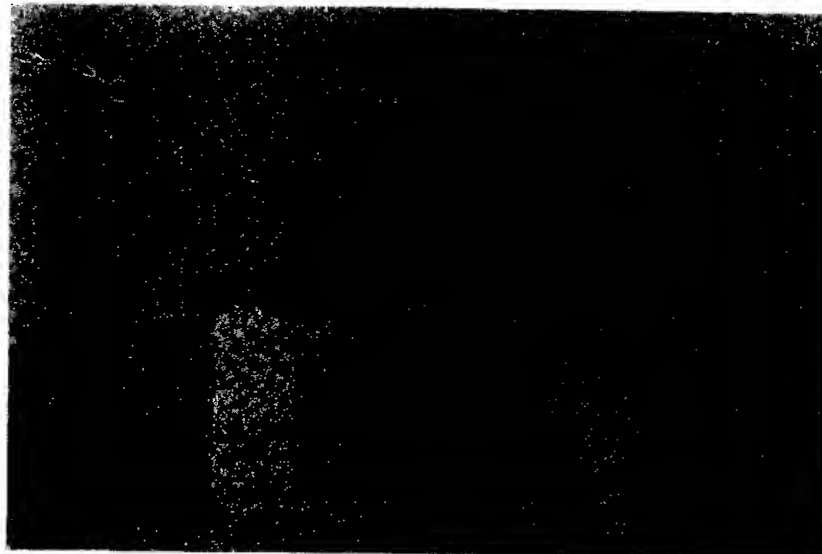
नई दिल्ली, 11 जुलाई, 2003

का. आ. 1970.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल नीचे दी गई आकृति देखें बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स प्राइम इंस्ट्रूमेंट्स, 113 कृष्ण कॉम्पलेक्स मधुरम सिनेमा के सामने, संदेश प्रेस के पास, धीकाना रोड, अहमदाबाद-380001 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "पी आई-4" श्रृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के माडल का, जिसके ब्रांड का नाम "प्राइम इंस्ट्रूमेंट्स" है "जिसे इसमें इसके पश्चात् माडल कहा गया है" और जिसे अनुमोदन चिह्न आई एन डी/09/2002/146 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त माडल (नीचे दी गई आकृति देखें) भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि.ग्रा. और न्यूनतम क्षमता 20 ग्रा. है। सत्यापन मापमान (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 बोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सोलिंग:—स्टाम्पिंग प्लेट को सील करने के साथ, सोलिंग कपटपूर्ण व्यवहारों के लिए मशीन खोलन से रोकने के लिए भी की जा सकती है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि.ग्रा. तक हैं और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित माडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 100 मि.ग्रा. से 2 ग्राम तक के "ई" मान के लिए 100 से 10000 की रेंज में हैं और 5 ग्रा. या इससे अधिक के "ई" मान के लिए सत्यापन मापमान अन्तराल (एन) 500 से 10,000 के रेंज में हैं तथा जिनका "ई" मान 1×10^{-6} 2×10^{-6} या 5×10^{-6} है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम 21(130)/2000]

पी.ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

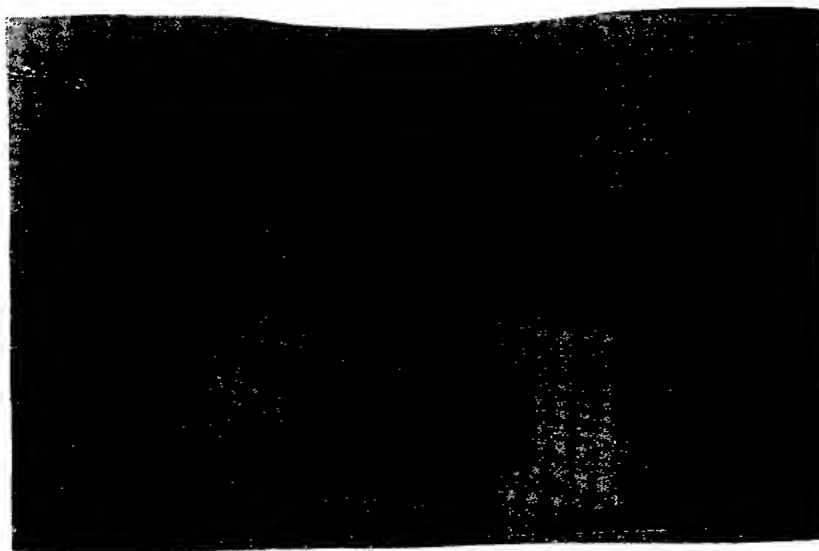
New Delhi, the 11th July, 2003

S.O. 1970.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Table top type) weighing instrument with digital indication of "PI-4" series of Medium accuracy (Accuracy class III) and with brand name "PRIME INSTRUMENTS" (herein referred to as the said model), manufactured by M/s. Prime Instruments, 113, Krishana Complex, Opp: Madhura Cinema, Near Sandesh Press, Gheekana Road, Ahmedabad-380 001 and which is assigned the approval mark IND/09/2002/146 ;

The said model (see the figure given below) is a load cell based weighing instrument with a maximum capacity of 10kg and minimum capacity of 20g. The verification scale interval (e) is 1 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing: In Addition to sealing the stamping plate sealing may also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50kg and with number of verification scale interval(n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g and with number of verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No.WM-21(130)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

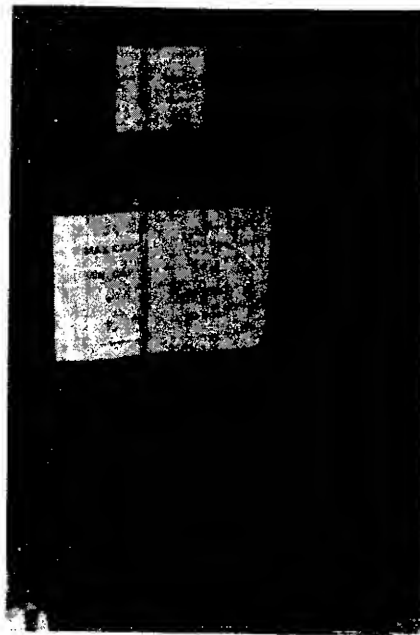
नई दिल्ली, 11 जुलाई, 2003

का. आ. 1971.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कपूर इंजीनियरिंग वर्क्स, रेलवे रोड, सहारनपुर-247001 उत्तर प्रदेश द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "मेस्कॉट" शृंखला के स्वतः सूचक, अस्वचालित, समरूप सूचन सहित तोलन उपकरण (प्लेटफार्म स्टील यार्ड प्रकार) के मॉडल का, जिसके ब्रांड का नाम "मेस्कॉट" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/55 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक प्लेटफार्म तोलन (स्टील यार्ड प्रकार) है इसकी अधिकतम क्षमता 100 कि.ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। उपकरण लीवर तंत्र पर कार्य करता है।

सील :—स्टाम्पिंग प्लेट को अतिरिक्त सील करते हुए सीलिंग अन्य महत्वपूर्ण हिस्सों जैसे संतुलन बाल आदि पर कपटपूर्ण व्यवहारों के लिए इसे खोलने से रोकने के लिए भी की जा सकती है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी यथार्थता वर्ग और उसी मेक वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 300 कि.ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 5 ग्रा. या इससे अधिक के "ई" मान के लिए 500 से 10,000 की रेंज में है तथा जिनका "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ है जिसमें के धनात्मक या ऋणात्मक पूर्णांक है या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम 21(159)/2000]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

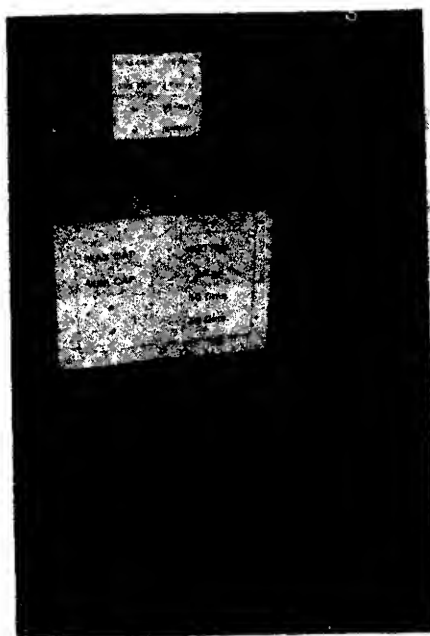
New Delhi, the 11th July, 2003

S.O. 1971.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Platform steel yard type) weighing instrument with analogue indication of "Mascot" series of Medium accuracy (Accuracy class III) and with brand name "MASCOT" (herein referred to as the said model), manufactured by M/s. Kapoor Engineering works, Railway Road, Saharanpur-247001, Uttar Pradesh and which is assigned the approval mark IND/09/2003 55;

The said model (see the figure given) is a Platform weighing instrument (steel yard type) with a maximum capacity of 100kg and minimum capacity of 1kg. The verification scale interval (e) is 50g.

Seal:— In addition to sealing the stamping plate sealing should also be done on other vital parts like balancing ball etc. to prevent their opening for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the other weighing instruments of same accuracy class and of same make with maximum capacity upto 300 kg and with number of verification scale interval(n) in the range of 500 to 10000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal or to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved said model has been manufactured.

[F. No.WM-21(159)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

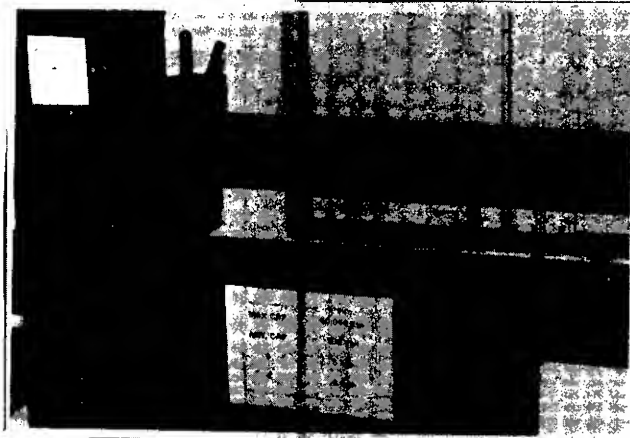
नई दिल्ली, 11 जुलाई, 2003

का.आ. 1972.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कपूर इंजीनियरिंग वर्क्स, रेलवे रोड, सहारनपुर -247001 उत्तर प्रदेश द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "मेस्कॉट" शृंखला के स्वतः सूचक, अस्वचालित समरूप सूचन सहित तोलन उपकरण (यांत्रिक वे ब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम "मेस्कॉट" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2003/54 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

सील बंद करना : स्टाम्पिंग प्लेट को अतिरिक्त सील बंद करते हुए सीलबंदी अन्य महत्वपूर्ण हिस्सों जैसे संतुलन बाल आदि पर कपटपूर्ण व्यवहारों के लिए इसे खोलने से रोकने के लिए भी की जा सकती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक यांत्रिक वे ब्रिज है। इसकी अधिकतम क्षमता 50 टन और न्यूनतम क्षमता 100 किलो ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 कि. ग्रा. है। उपकरण लीवर तंत्र पर कार्य करता है।



और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी यथार्थता वर्ग और उसी मेक, वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम 5 टन से अधिक और 100 टन तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 5 किलो ग्रा. या इससे अधिक के "ई" मान के लिए 500 से 10,000 के रेंज में है तथा जिनका "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक है या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू. एम. 21(159)/2000]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

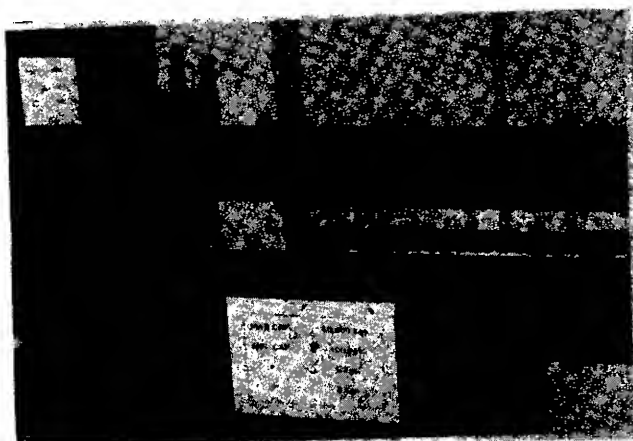
New Delhi, the 11th July, 2003

S.O. 1972.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of self-indicating, non-automatic, (Mechanical weigh bridge type) weighing instrument with analogue indication of "Mascot" series of Medium accuracy (Accuracy class III) and with brand name "MASCOT", (herein referred to as the said model) manufactured by M/s Kapoor Engineering works, Railway Road, Saharanpur-247001, Uttar Pradesh and which is assigned the approval mark IND/09/2003/54;

Seal :—In addition to sealing the stamping plate sealing should also be done on other vital parts like balancing ball etc. to prevent their opening for fraudulent practices.

The said Model (see the figure given below) is a mechanical weigh bridge with a maximum capacity of 50 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5kg. The instrument works on lever system.



Further, in exercise of the powers conferred by Sub-section (12) of Section, 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of same accuracy class and of same make with maximum capacity above 5 tonne and upto 100 tonnes and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k k being positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(159)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1973.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स विराट मेटल 10, खोदियार पारा, अजी जी. आई. डी. सी. राजकोट, गुजरात द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "माइक्रोस्केल" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2003/69 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है ;

यह मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन (यांत्रिक) है। इसकी अधिकतम क्षमता 10 कि. ग्रा. है।



और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के ऐसे तोलन उपकरण भी होंगे जो जिनकी अधिकतम क्षमता 500 ग्राम से 50 कि. ग्रा. की रेंज में है और जिनका विनिर्माण उसी विनिर्माता द्वारा सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है।

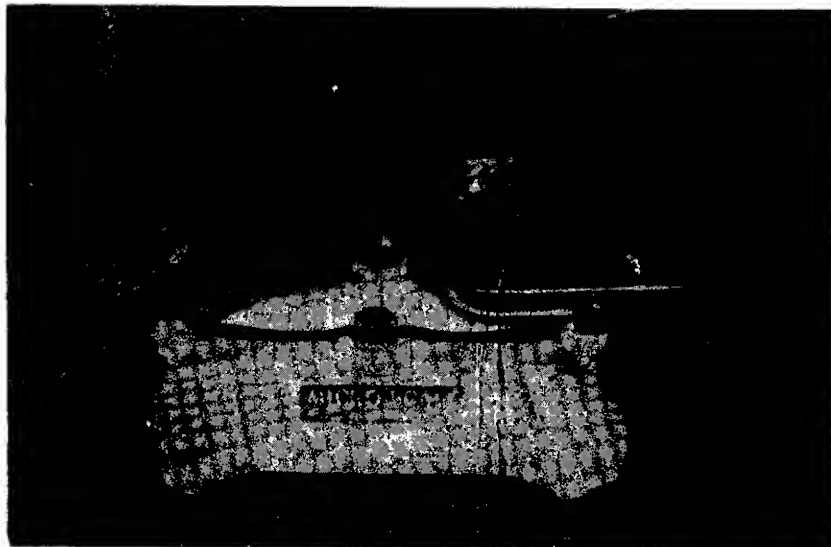
[फा.सं. डब्ल्यू. एम. 21(17)/2000]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विभाग

New Delhi, the 11th July, 2003

S.O. 1973.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of counter machine with brand name "MICRO SCALE" (hereinafter referred to as the model) manufactured by M/s. Virat Metal, 10, Khodiyar Para, Aji G.I.D.C Rajkot, Gujarat and which is assigned the approval mark IND/09/2003/69 ;



The said model (see the figure given above) is a counter machine (Mechanical) with a maximum capacity of 10 kg.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of same series with maximum capacity in the range of 500 g to 50 kg manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved model has been manufactured.

[File No. WM-21(17)/2000]

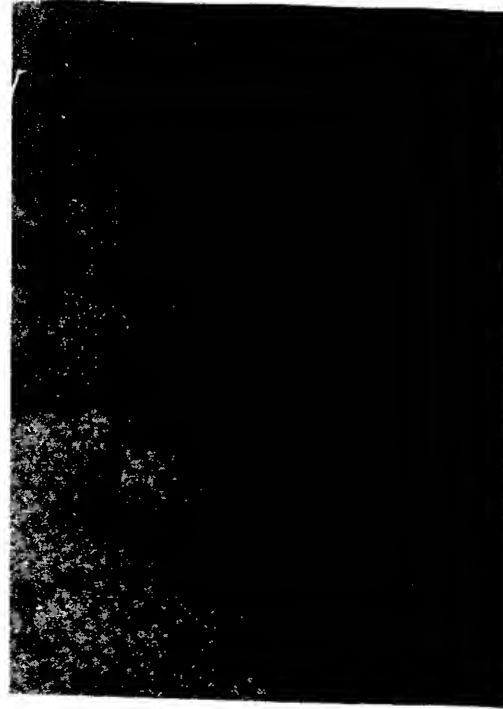
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1974.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मनीकॉन सिस्टम्स, प्लॉट नं. 9 और 10, सेक्टर एफ पार्वती को आपरेटिव इंडस्ट्रियल एस्टेट, यादव- 416154, इचलकरंजी, महाराष्ट्र द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग 2) वाले "एम डब्ल्यू एम-242 पी आर" श्रृंखला के स्वतः सूचक, अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "मनीकॉन" है "जिसे इसमें इसके पश्चात् मॉडल कहा गया है" और जिसे अनुमोदन चिह्न आई एन डी/09/2003/02 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल (नीचे दी गई आकृति देखें) विकृतमापी टाइप भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 24 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



सीलिंग : स्टाम्पिंग प्लेट को सील करने के साथ सीलिंग कपटपूर्ण व्यवहारों के लिए मशीन खोलने से रोकने के लिए भी की जाएगी।

और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित माडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) 1 मि. ग्रा. से 50 मि. ग्रा. तक के "ई" मान के लिए 100 से 50000 के रेंज में है और 100 मि. ग्रा. या इससे अधिक के "ई" मान के लिए सत्यापन मापमान अंतराल (एन) 5000 से 50000 के रेंज में है तथा जिनका "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू एम. 21(14)/99]

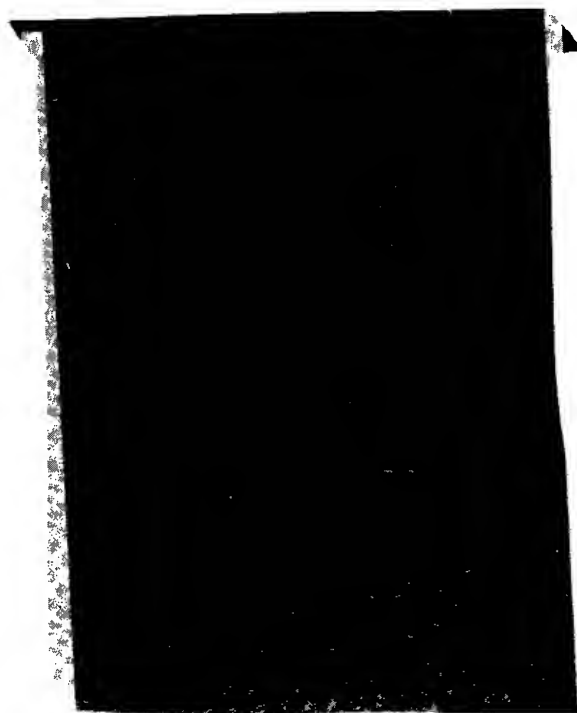
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th July, 2003

S.O. 1974.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, (table top type) weighing instrument with digital indication of "MWS-242 PR" series of high accuracy Accuracy class II) and with brand name "Manicon" (hereinafter referred to as the model) manufactured by M/s Manicon Systems, Plot No. 9 & 10, Sector F Parvathi Co-Operative Industrial Estate, Yadrav-416145, Ichalkaranji, Maharashtra and which is assigned the approval mark IND/09/2003/02;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 24kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 percent subtractive retained tare effect. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;



Sealing : In addition to sealing the stamping plate sealing shall be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with having maximum capacity upto 50kg and with number of verification scale interval (n) in the range 100 to 50,000 for "e" value of 1mg to 50mg and with number of verification scale interval (n) in the range of 5000 to 50000 for "e" value of 100mg or more and with 'e' value 1×10^k , 2×10^k or 5×10^k k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model have been manufactured.

[F. No. WM-21(14)/99]

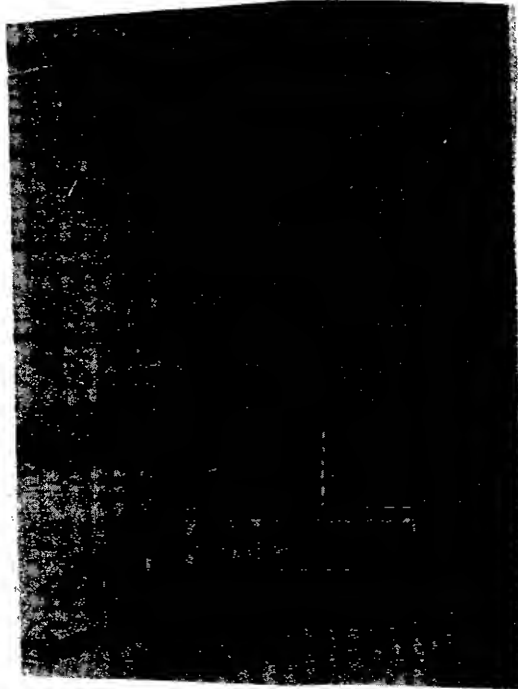
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1975.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मनीकॉन सिस्टम्स, प्लॉट नं. 9 और 10, सेक्टर एफ पार्वती को आपरेटिव इंडस्ट्रियल एस्टेट, यादख- 416154, इचलकरंजी, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 2) वाले "एम डब्ल्यू एम-242 पी सी" श्रृंखला के स्वतः सूचक, अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "मनीकॉन" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/03 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल (नीचे दी गई आकृति देखें) विकृतमापी टाइप भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 24 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



सीलिंग : स्टाम्पिंग प्लेट को सील करने के साथ सीलिंग कपटपूर्ण व्यवहारों के लिए मशीन खोलने से रोकने के लिए भी की जाएगी।

और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) 1 मि. ग्रा. से 50 मि. ग्रा. तक के "ई" मान के लिए 100 से 50000 के रेंज में है और 100 मि. ग्रा. या इससे अधिक के "ई" मान के लिए सत्यापन मापमान अंतराल "एन 5000 से 50000 के रेंज में है तथा जिनका "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू. एम. 21(14)/99]

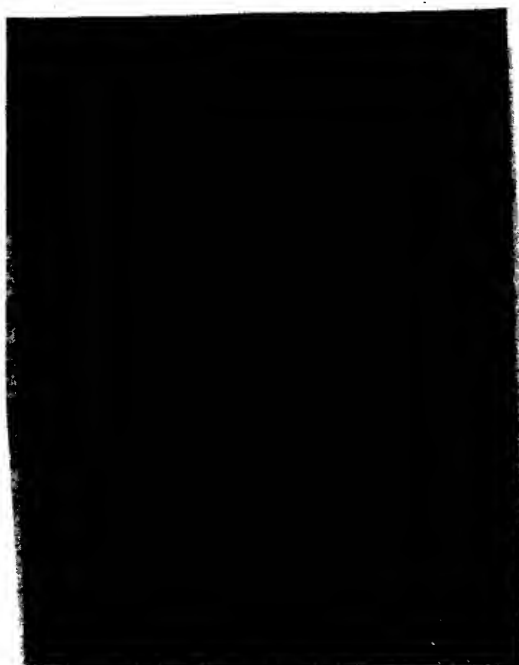
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th July, 2003

S.O. 1975.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (table top type) weighing instrument with digital indication of "MWS-242 PC" series of high accuracy (Accuracy class II) and with brand name "Manicon" (hereinafter referred to as the model) manufactured by M/s. Manicon Systems, Plot No. 9 & 10, Sector F Parvathi Co-Operative Industrial Estate, Yadvav-416145, Ichalkaranji, Maharashtra and which is assigned the approval mark IND/09/2003/03;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 24 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;



Sealing : In addition to sealing the stamping plate, sealing shall be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with having maximum capacity upto 50 kg. and with number of verification scale interval (n) in the range 100 to 50,000 for "e" value of 1mg to 50mg and with number of verification scale interval(n) in the range of 5000 to 50000 for "e" value of 100mg or more and with 'e' value 1×10^k , 2×10^k or 5×10^k k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved said model have been manufactured.

[File No. WM-21(I4)/99]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1976.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलो का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मनीकॉन सिस्टम्स, प्लाट नं. 9 और 10, सेक्टर एफ पार्वती को आपरेटिव इंडस्ट्रियल एस्टेट, यादरव- 416145, इचलकरंजी, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "एम डब्ल्यू एम-21 ई सी" शृंखला के स्वतः सूचक अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का जिसके ब्रांड का नाम "मनीकॉन" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/04 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल (नीचे दी गई आकृति देखें) विकृतमापी टाइप भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 5 कि. ग्रा. और न्यूनतम क्षमता 20 ग्रा. है। सत्यापन मापमान (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



सीलिंग : स्ट्याम्पिंग प्लेट को सील करने के साथ सीलिंग कपटपूर्ण व्यवहारों के लिए मशीन खोलने से रोकने के लिए भी की जाएगी।

और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) 100 मि. ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10000 की रेंज में है और 5 ग्रा. या इससे अधिक के "ई" मान के लिए सत्यापन मापमान अंतराल (एन) 500 से 10000 के रेंज में है तथा जिनका "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा.सं. डब्ल्यू. एम. 21(14)/99]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

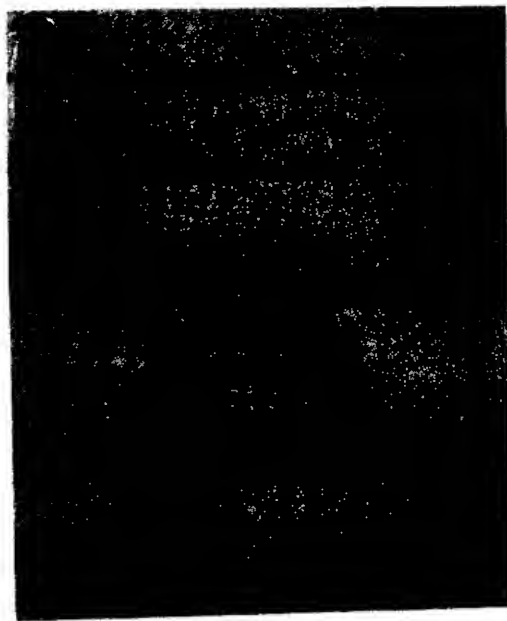
New Delhi, the 11th July, 2003

S.O. 1976.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (table top type) weighing instrument with digital indication of MWS-051 EC series belonging to medium accuracy (Accuracy class III) and with brand name "Manicon" (hereinafter referred to as the model) manufactured by M/s. Manicon Systems, Plot No. 9 & 10, Sector F, Parvathi Co-Operative Industrial Estate, Yadrav-416145, Ichalkaranji, Maharashtra and which is assigned the approval mark IND/09/2003/04 ;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity in the range of 5kg and minimum capacity of 20g. The verification scale interval (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing : In addition to sealing the stamping plate, sealing shall be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50kg and with number of verification scale interval(n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with number of verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved said model has been manufactured.

[File No. WM-21(14)/99]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1977.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मनीकान सिस्टम्स, प्लॉट न. 9 और 10, सेक्टर एफ पार्वती को-ऑपरेटिव इंडस्ट्रियल एस्टेट, यादरव- 416145, इचलकरंजी, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता धर्म 3) वाले "एम डब्ल्यू एस-051 ई सी" शृंखला के स्वतः सूचक अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का जिसके ब्रांड का नाम "मनीकान" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2003/05 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल (नीचे दी गई आकृति देखें) विकृतमापी टाइप भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 2 कि. ग्रा. रेंज में है और न्यूनतम क्षमता 20 ग्रा. है। सत्यापन मापमान (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



सीलिंग : स्टाम्पिंग प्लेट को सील करने के साथ सीलिंग कपटपूर्ण व्यवहारों के लिए मशीन खोलने से रोकने के लिए भी की जाएगी।

और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) 100 मि. ग्रा. से 2 ग्राम तक के "ई" मान के लिए 100 से 10,000 की रेंज में हैं और 5 ग्रा. या इससे अधिक के "ई" मान के लिए सत्यापन मापमान अन्तराल "एन 500 से 10000 के रेंज में हैं तथा जिनका "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम. 21(14)/99]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th July, 2003

S.O. 1977.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (table top type) weighing instrument with digital indication of MWS-051EC series belonging to medium accuracy (Accuracy class III) and with brand name "Manicon" (hereinafter referred to as the model) manufactured by M/s. Manicon Systems, Plot No. 9 and 10, Sector F Parvathi Co-Operative Industrial Estate, Yadvav-416145, Ichalkaranji, Maharashtra and which is assigned the approval mark IND/09/2003/05;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity in the range of 2kg and minimum capacity of 20g. The verification scale interval (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing : In addition to sealing the stamping plate sealing shall be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved said model has been manufactured.

[File No. WM-21(14)/99]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 11 जुलाई, 2003

का.आ. 1978.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मनीकॉन सिस्टम्स, प्लॉट न. 9 और 10, सेक्टर एफ पार्वती को-आपरेटिव इंडस्ट्रियल एस्टेट, यादख-416145, इचलकरंजी, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "एम डब्ल्यू एस-102 ई सी" शृंखला के स्वतः सूचक, अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का जिसके ब्रांड का नाम "मनीकॉन" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2003/06 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल (नीचे दी गई आकृति देखें) विकृतमापी टाइप भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि. ग्रा. रेंज में है और न्यूनतम क्षमता 20 ग्रा. है। सत्यापन मापमान (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



सीलिंग : स्टाम्पिंग प्लेट को सील करने के साथ सीलिंग कपटपूर्ण व्यवहारों के लिए मशीन खोलने से रोकने के लिए भी की जाएगी।

और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) 100 मि. ग्रा. से 2 ग्राम तक के "ई" मान के लिए 100 से 10000 के रेंज में है और 5 ग्रा. या इससे अधिक के "ई" मान के लिए सत्यापन मापमान अंतराल (एन) 500 से 10,000 के रेंज में है तथा जिनका "ई" मान 1×10^3 , 2×10^3 या 5×10^3 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम. 21(14)/99]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

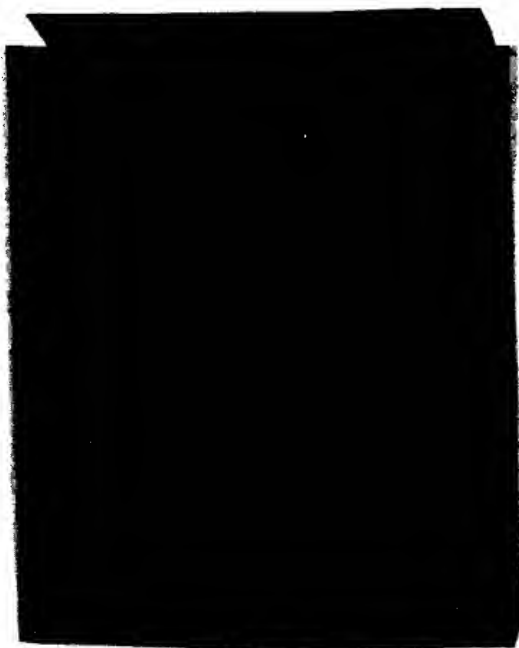
New Delhi, the 11th July, 2003

S.O. 1978.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self-indicating, non-automatic, (table top type) weighing instrument with digital indication of MWS-102EC series belonging to medium accuracy (Accuracy class III) and with brand name "Manicon" (hereinafter referred to as the said model) manufactured by M/s. Manicon Systems, Plot No. 9 and 10, Sector F Parvathi Co-Operative Industrial Estate, Yadvav-416145, Ichalkaranji, Maharashtra and which is assigned the approval mark IND/09/2003/06;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity is 10kg and minimum capacity of 20g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50 Hertz alternate current power supply;

Sealing : In addition to sealing the stamping plate sealing shall be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved said model has been manufactured.

[File No. WM-21(14)/99]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

कोयला मंत्रालय

नई दिल्ली, 30 जून, 2003

का. आ. 1979.— केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि से कोयला अभिप्राप्त किए जाने की संभावना है ;

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अंतर्गत आने वाले क्षेत्र के रेखांक संख्यांक एम.सी.एल./एस.ए.एम.बी./जी.एम./ (सी.पी. और पी.), गोपालप्रसाद (पश्चिमी)/03/13 तारीख 24.03.2003 का निरीक्षण महाप्रबंधक (सी.पी. और पी.), महानदी कोल फील्ड लिमिटेड, जागरुति, बिहार बुरला, संबलपुर-768020 (उड़ीसा) के कार्यालय में या कलक्टर और जिला मजिस्ट्रेट, अंगुल, उड़ीसा के कार्यालय में या कोयला नियंत्रक, 1, कौंसिल हाऊस स्ट्रीट कोलकाता के कार्यालय में किया जा सकता है; इस अधिसूचना के अंतर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर कार्यालय भार साधक/विभागाध्यक्ष (राजस्व/संपदा, महानदी, कोलफील्ड लिमिटेड, जागरुति विहार, बुरला, संबलपुर - 768020 (उड़ीसा)) या कलक्टर या जिला मजिस्ट्रेट, अंगुल, उड़ीसा के कार्यालय में भेजेंगे ।

अनुसूची
गोपालप्रसाद (पश्चिमी) खंड
तलचर कोलफील्ड
जिला अंगुल (उड़ीसा)
सभी अधिकार

(रेखांक सं. एम.सी.एल./एस.ए.एम.बी./जी.एम. (सी.पी. और पी.)/गोपालप्रसाद
 (पश्चिमी)/03/13 तारीख 24.03.2003)

क्र.सं.	ग्राम का नाम	पुलिस स्टेशन और सं.	तहसील/उप खंड	जिला/राज्य	क्षेत्र हेक्टेयर में	टिप्पणी
1	भालूगड़िया	कोलेरी-01	तलचर	अंगुल/उड़ीसा	667.89	सम्पूर्ण
2	बागुआबोला	कोलेरी-02	तलचर	अंगुल/उड़ीसा	40.73	सम्पूर्ण
3	कुसुमपाल	कोलेरी-03	तलचर	अंगुल/उड़ीसा	40.00	भाग
4	कौंसिधिपा	जारापाड़ा-63	छेंडिपाड़ा	अंगुल/उड़ीसा	60.00	भाग

5	छोटाबेरनी	जारापाड़ा-64	छेंडिपाड़ा	अंगुल/उड़ीसा	350.00	भाग
6	कनकेरी	जारापाड़ा-65	छेंडिपाड़ा	अंगुल/उड़ीसा	1100.00	भाग
7	पिराखमाना	जारापाड़ा-66	छेंडिपाड़ा	अंगुल/उड़ीसा	246.16	सम्पूर्ण
8	बालीचंदरपुर	जारापाड़ा-67	छेंडिपाड़ा	अंगुल/उड़ीसा	428.74	भाग
9	कुमुंदा	कानिहा-119	तलचर	अंगुल/उड़ीसा	600.00	भाग
10	निसा संरक्षित वन	जारापाड़ा	छेंडिपाड़ा	अंगुल/उड़ीसा	750.00	भाग
11	जैपुर आरक्षित वन	छेंडिपाड़ा	छेंडिपाड़ा	अंगुल/उड़ीसा	232.00	भाग
12	निसा	जारापाड़ा-69	छेंडिपाड़ा	अंगुल/उड़ीसा	180.00	भाग
	योग				4695.52 (लगभग) या 1900.25 हेक्टेयर (लगभग)	

सीमा वर्णन :

क-ख-ग-घ : रेखा सिंहदा नदी के उत्तरी किनारे पर ग्राम कुमुंदा में बिंदु 'क' से प्रारंभ होती है, तब उक्त नदी पार करने के पश्चात् दक्षिण की ओर बढ़ती है और बिन्दु 'ख' तक उक्त नदी की शाखा की पूर्वी सीमा के साथ जिसके अंतर्गत ग्राम कुसुमपाल का पश्चिमी भाग भी है, तब यह बिन्दु 'ग' तक कुसुमपाल ग्राम के पश्चिमी की ओर बढ़ती है फिर यह बिन्दु 'घ' तक भलूगड़िया ग्राम की पूर्वी सीमा के साथ-साथ दक्षिण की ओर आगे बढ़ती है जो भालूगड़िया ग्राम नुहामुहीन आरक्षित वन और निशा संरक्षित वन का त्रिसंगम बिन्दु है।

घ-ङ : रेखा बिन्दु 'घ' से प्रारंभ होती है निशा आरक्षित वन और नौमुहीन आरक्षित वन की सम्मिलित सीमा के साथ-साथ दक्षिण की ओर बिन्दु 'ङ' तक आगे बढ़ती है।

ङ-च : रेखा बिन्दु 'ङ' से प्रारंभ होती है और निशा संरक्षित वन और निशा ग्राम से हो कर जाती है तब बिन्दु 'च' पर मिलती है।

च-छ : रेखा 'च' बिन्दु से प्रारंभ होती है और अंगुल छेंडीपाड़ा राज्य राजमार्ग की उत्तरी सीमा के साथ-साथ आगे जाती है और बिन्दु 'छ' पर मिलती है।

छ-ज : रेखा बिन्दु 'छ' से प्रारंभ होती है और कंकराप पर कोंसिधिपा और छोटा बेरनी से होकर उत्तरी की ओर आगे बढ़ती है और सिंहदा नदी के दक्षिणी किनारे पर बिन्दु 'ज' पर मिलती है।

ज-झ : रेखा बिन्दु 'ज' से प्रारंभ होती है और सिंहदा नदी के दक्षिणी किनारे के साथ-साथ पूर्व की ओर आगे बढ़ती है फिर यह उक्त नदी को पार करती है और नदी के उत्तरी किनारे पर बिन्दु 'झ' पर मिलती है।

झ-क : रेखा बिन्दु 'झ' से प्रारंभ होती है और जैपुर आरक्षित वन और ग्राम कुमुंदा से होकर पूर्व की ओर आगे बढ़ती है फिर यह प्रारंभिक बिन्दु 'क' पर मिलती है ।

[फा. सं. -43015/6/2003-पी.आर.आई. डब्ल्यू.]

संजय बहादुर, उप सचिव

Ministry of Coal

New Delhi, 30th June, 2003

S. O. 1979.—Whereas it appears to the Central Government that Coal is likely to be obtained from the lands in the locality mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein;

The plan bearing No. MCL/ SAMP/ GM/ (CP&P)/ GOPALPRASAD (West)/ 03/ 13 dated 24th March, 2003 of the area covered by this notification can be inspected at the Office of the General Manager (CP&P), Mahanadi Coalfields Limited, Jagriti Vihar, Burla, Sambalpur 768020 (Orissa) or at the Office of the Collector and District Magistrate, Angul, Orissa or at the Office of the Coal Controller, 1, Council House Street, Kolkata 700001.

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (1) of section (7) of section 13 of the said Act to the Officer-in-Charge/ Head of the Department (Revenue/ Estate), Mahanadi Coalfields Limited, Jagriti Vihar, Burla, Sambalpur 768020 (Orissa) within 90 days from the date of publication of this notification in the Official Gazette.

Schedule Gopalprasad (West) Block Talcher Coalfield District Angul (Orissa)

All Rights

(Plan bearing No. MCL/ SAMP/ GM(CP&P)/ Gopalprasad (West)/ 03/13 dated 24.03.2003)

Sl. no.	Village	Police station number	Tahsil/ Sub division	District/ state	Area in acres	Remarks
1.	Bhalugadia	Colliery-01	Talcher	Angul/ Orissa	667.89	Full
2.	Baghuabola	Colliery-02	Talcher	Angul/ Orissa	40.73	Full
3.	Kusumpal	Colliery-03	Talcher	Angul/ Orissa	40.00	Part
4.	Kaunsidhipa	Jarapada-63	Chhendipada	Angul/ Orissa	60.00	Part

5.	Chhotaberini	Jarapada-64	Chhendipada	Angul/ Orissa	350.00	Part
6.	Kankarei	Jarapada-65	Chhendipada	Angul/ Orissa	1100.00	Part
7.	Pirakhamana	Jarapada-66	Chhendipada	Angul/ Orissa	246.16	Full
8.	Balichandrapur	Jarapada-67	Chhendipada	Angul/ Orissa	428.74	Part
9.	Kumunda	Kaniha- 119	Talcher	Angul/ Orissa	600.00	Part
10.	Nisa Protected Forest.	Jarapada	Chhendipada	Angul/ Orissa	750.00	Part
11.	Jaypur Reserve Forest.	Chhendipad	Chhendipada	Angul/ Orissa	232.00	Part
12	Nisa	Jarapada-69	Chhendipada	Angul/ Orissa	180.00	Part
Total					4695.52 (approx.) or 1900.25 hectares (approx.)	

Boundary Description

- A-B-C-D The line starts from point 'A' in village Kumunda at the northern bank of Singada river, then proceeds towards south, after crossing the said river and along the eastern boundary of the branch of the said river up to point 'B', including the western part portion of village Kusumpal, then it proceeds towards west side of village Kusumpal up to point 'C', then it proceeds towards south along eastern boundary of village Bhalugadia up to point 'D' which is the trijunction point of villages Bhalugadia, Nuhamuhin R.F. and Nisha Protected Forest.
- D-E The line starts from point 'D' proceeds towards south along the common boundary of Nisha R.F. and Nuamuhin R.F. up to point 'E'.
- E-F The line starts from point 'E' and passes though Nisha protected Forest and Nisha village then meets up to point 'F'.
- F-G The line starts from point 'F' and proceeds along the north side of the Angul Chhendipada state highway road and meets at the point 'G'.
- G-H The line starts from point 'G' and proceeds towards north though village Kankarai, Kaunsidhipa and Chhotaberini and meets with point 'H' at the southern bank of river Singada.
- H-I The line starts from point 'H' proceeds towards east along the southern bank of Singada river, then it crosses the said river and meets with point 'I' a the northern bank of the river.
- I-A The line starts from point 'I' and proceeds towards east through Jaypur Reserve Forest and village Kumunda, then it meets at begining point 'A'.

[No. 43015/6/2003-P.R.I/W.]
SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 14 जुलाई, 2003

शुद्धि. पत्र

का. आ. 1980.— भारत के असाधारण राजपत्र, तारीख 29 मई 2003 के भाग II, खंड - 3 उपखंड (ii), में पृष्ठ क्रमांक 3 पर प्रकाशित, भारत सरकार, कोयला मंत्रालय की अधिसूचना का० आ० 633 (अ) तारीख 29 मई, 2003 में :-

(1) पृष्ठ क्रमांक - 3 पर

ग्राम कोटा (भाग) में अर्जित किए जाने वाले प्लॉट संख्याक में पंक्ति 1 व 2- “131 (भाग), से 142” को संशोधित कर “131 से 142” पढ़ा जाय।

(2) सीमावर्णन में, रेखा ग - घ पैरा की पंक्ति 1 में ‘प्लॉट’ को संशोधित कर ‘प्लाट’ पढ़ा जाय।

[फा. सं. -43015/16/2000-पी.आर.आई. डब्ल्यू.]
संजय बहादुर, उप सचिव

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 17 जुलाई, 2003

का. आ. 1981.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन से पंजाब राज्य में भटिंडा तक मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइनों के माध्यम से अपरिष्कृत तेल के परिवहन के लिए गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) द्वारा पाइपलाइने बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइने बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर उक्त पाइपलाइने बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबध्द अनुसूची में वर्णित हैं, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबध्द है उस तारीख से, जिसको भारत के राजपत्र में यथाप्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि में उपयोग के अधिकार के अर्जन या भूमि के भीतर पाइपलाइन बिछाने के संबंध में श्री डी.के. पारेख, सक्षम प्राधिकारी मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन, गुरु गोविंद सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी), पो. बॉक्स नं. 43, यूनिट 2, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, मु. पो. खारी रोड, तालुका गौधीधाम, गुजरात राज्य को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : राधनपुर

जिला : पाटण

राज्य : गुजरात

गाँव का नाम	सर्वे मँख्या	भाग यदि है तो	क्षेत्रफल		
			हेक्टर	आर	मैन्टी आर
1	2	3	4		
(1) मांथली	29	-	00	06	10
(2) गंगपुरा	50	पैकी	00	08	01
(3) जावंत्री	295/1	-	00	02	77
	306	-	00	13	14
(4) चलवाडा	37	-	00	09	26
	41	-	00	05	44
	20	-	00	16	14
	111/1	पैकी	00	00	88
	107	-	00	01	92
	188	-	00	05	80
(5) बंधवड	246	-	00	03	66
(6) देव	142	-	00	01	56
	75	-	00	17	54
(7) सुलतानपुरा	158/2	पैकी	00	04	99
(8) मुवापुरा	187/1	पैकी	00	03	45
	187/1	पैकी कार्ट ट्रैक	00	03	59
	188	पैकी	00	04	03
	188	पैकी कार्ट ट्रैक	00	02	50
	189	पैकी कार्ट ट्रैक	00	00	71
	190	पैकी	00	05	48
	191	पैकी	00	13	43
	192	पैकी	00	02	86
	12/1	पैकी कार्ट ट्रैक	00	01	06

[फा. सं. आर-31015/8/2002-ओ.आर-II]

हरीश कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, 17th July, 2003.

S. O. 1981.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from crude oil terminal at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab, through Mundra-Bathinda crude oil pipelines, pipelines should be laid by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas, it appears to the Central Government that for the purpose of laying the said pipelines, it is necessary to acquire the right of user in the land under which the said pipelines are proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri D.K.Parekh, Competent Authority, Mundra-Bathinda Crude Oil Pipeline, Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited), P.B.No. 43, Unit 2, HPCL, At and Post Khari Rohar, Taluka Gandhidham, State Gujarat.

SCHEDULE

Taluka: Radhanpur

District: Patan

State: Gujarat

Name of Village	Survey No.	Part if Any	ROU Area		
			Ha.	Ar.	Sq. Mt.
1	2	3	4		
(1) Santhali	29	-	00	06	10
(2) Rangpura	50	P	00	08	01
(3) Jawantri	295/1	-	00	02	77
	306	-	00	13	14
(4) Chalwada	37	-	00	09	26
	41	-	00	05	44
	20	-	00	16	14
	111/1	P	00	00	88
	107	-	00	01	92
	188	-	00	05	80
(5) Bandhwad	246	-	00	03	66
(6) Dev	142	-	00	01	56
	75	-	00	17	54
(7) Sultanpura	158/2	P	00	04	99
(8) Subapura	187/1	P	00	03	45
	187 1	P - Cart Track	00	03	59
	188	P	00	04	03
	188	P - Cart Track	00	02	50
	189	P - Cart Track	00	00	71
	190	P	00	05	48
	191	P	00	13	43
	192	P	00	02	86
	12/1	P - Cart Track	00	01	06

श्रम मंत्रालय

नई दिल्ली, 10 जुलाई, 2003

का. आ. 1982.—केन्द्रीय सरकार एतद्वारा, उत्प्रावास अधिनियम, 1983 (1983 का 31) की धारा-3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पर्यावरण एवं वन मंत्रालय में केन्द्रीय सचिवालय सेवा संवर्ग के अनुभाग अधिकारी श्री आर. सुन्दर लाल को 20 जून, 2003 (पूर्वाह्न) से श्रम मंत्रालय में उत्प्रावास संरक्षी-II, चैन्नई के रूप में नियुक्त करती है।

[सं. एस-13011/1/2003-उत्प्रावास]

ए. ए. चलाई, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 10th July, 2003

S.O. 1982.—In exercise of the powers conferred by Section 3, Sub-section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri R. Sunder Lal, Section Officer of the CSS cadre of Environment & Forests, as Protector of Emigrants-II, Chennai, in the Ministry of Labour with effect from 20th June, 2003 (Forenoon).

[No. S-13011/1/2003-Emig.]

A. A. CHALAI, Under Secy.

नई दिल्ली, 18 जून, 2003

का. आ. 1983.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामर्था. क्रोमाईट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 339/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/115/99-आई.आर.(विविध)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1983.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 339/2001) of the Central Government Industrial Tribunal-cum-Labour Court Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kamardha Chromite Mines and their workman, which was received by the Central Government on 17-06-2003.

[No. L-29012/115/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT
BHUBANESHWAR**

Present :

Shri S. K. Dhal, OSJS, (Sr. Branch)
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 339/2001

Date of conclusion of hearing—07th May, 2003

Date of Passing Award—29th May, 2003

Between :

(a). The Director, Kamardha Chromite Mines,
M/s. B.C. Mohanty & Sons,
Rajabagicha, Cuttack – 753009.

(b) Shri Mobarak Ali & Others,
At/Po/Ps. Sukinda, Distt. Jajpur.

... 1st Party-
Managements

And

Their Workman Shri Lachhman Behera,
Represented through the Treasurer,
Sukinda Upatyaka Mines Workers' Union
At. Dabalagiri, P.O. Jajpur Road, Jajpur

... 2nd Party-
Union**Appearances :**

M/s Rajkishore Sahoo, Advocate. ... For the 1st
Party-
Managements

M/s. Prabhakar Jena, Advocate. ... For the 2nd
Party-Union

AWARD

The Government of India in the Ministry of Labour in exercise of Powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication *vide* their Order No. L-29012/115/99/IR (M), dated 22-02-2000 :—

“Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Lachhman Behera or the workman has abandoned his job on his own? If not, to what relief (if any) is the workman entitled?”

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to

maintain piece in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

BEFORE THE PRESIDING OFFICER : CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL :
BHUBANESHWAR

I. D. Case No. 339 of 2001

Kamardha Chromite Mines of
M/s. B.C. Mohanty & Sons (P) Ltd.
and another

... Ist Parties

Vrs.

Lachhman Mehera

... 2nd Party

FORM - H

(See Rule-58)

FOR MEMORANDUM OF SETTLEMENT:

- Name of Parties :
- (i) Kamardha Chromite Mines
M/s. B.C. Mohanty & Sons
 - (ii) Mr. Abdul Sattar, Contractor
being dead, substituted by his
sons Mobarak Ali, Mumtaz Ali,
Mustak Ali, Manjoor Ali.
- Representing
Employer (s) :
- (i) First Party No. 1 Mr. Prakash
Chandra Mohanty, Managing
Director of M/s. B.C. Mohanty
& Sons (P) Ltd. of Kamardha
Chromite Mines.
 - (ii) First Party No. 2 Mumtaz Ali
S/o. Late Abdul Sattar.

Representing Workman : Lachhman Behera

SHORT RECITAL OF THE CASE

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication in the above Industrial Dispute Case on the following issue.

"Whether the management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman or the workman has abandoned his job on his own? If not what relief (if any) is the workman entitled?"

2. That in the dispute case, the workman has filed his regular claim and the First Party No. 1 has filed its written statement denying the said claim.

3. But to avoid prolonged litigations and expenses both the employers and workman have decided to settle the matter finally and permanently, and they have settled in the following terms and conditions.

- (i) That the workman has not received his wages for the period, he worked.
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman.
- (iii) The employers will have no objection if the workman will join in this work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandoned.
- (iv) The employers had paid a total sum of Rs. 7500/- (Seven thousand five hundred only) today to the workman towards his unpaid wages and leave ways and for all other benefits.
- (v) The workman has received the said amount of Rs. 7500/- as full and final satisfaction towards all his dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the employers and he can not claim more status than he was nor he shall approach any higher court nor he can claim any thing about above said dispute in any court in future.
- (vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises.

WITNESSES:

1. Debendra Nath Somal
Rajabagicha, Cuttack.

For B.C. Mohanty & Sons (P) Ltd.

Managing Director
Signature of First Party No. 1

2. Ramani Ranjan Das
Rajabagicha, Cuttack

Signature of First Party No. 2

Signature of Workman.

नई दिल्ली, 18 जून, 2003

का. आ. 1984.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिविल एविएशन ट्रेनिंग कॉलेज के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के प्रचाट (संदर्भ संख्या 27/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-06-2003 को प्राप्त हुआ था।

[सं. एल-11012/14/2001-आईआर (विविध)]

बी० एम० डेविड, अवर् सचिव

New Delhi, the 18th June, 2003

S.O. 1984.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/2001) of the Central Government Industrial Tribunal-cum-Labour

Court Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Civil Aviation Training College and their workman, which was received by the Central Government on 18-6-2003.

[No. L-11012/14/2001-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SARVODAYA
NAGAR, KANPUR, U.P.

Industrial Dispute No. 27 of 01

Sri Rup Narain
S/o Ram Kumar
Vill. & Post Sarawan
Allahabad.

AND

The Principal
Civil Aviation Training College
Bamrauli Allahabad

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-11012/14/2001-IR (M), dated 31-10-2001 has referred the following dispute for adjudication to this tribunal—

“Whether the action of the management of Civil Aviation Training College Bamrauli, Allahabad in terminating the services of Shri Rup Narain w.e.f. 1-9-99 is justified? If not, to what relief the workman is entitled?”

2. In the instant case on receipt of reference order registered notice was sent on 7-1-02 to the workman to file his statement of claim fixing a date as 11-2-02. On 11-2-02 one Sri G K. Sinha authorised representative appeared and moved an application for adjournment, which was allowed and the case was taken up on 22-3-02. The authorised representative again appeared on behalf of the workman but instead of filing statement of claim sought further adjournment by moving application which was allowed and case was fixed on 2-5-02. Thereafter repeated opportunities were given to the workman by the tribunal to file statement of claim but the workman failed in filing his statement of claim in the case.

3. Finally when the case was taken up on 6-6-03 representative for the workman appeared but did not file statement of claim nor moved any application for time to file the same.

4. Thus from the conduct and behaviour of the workman it is quite evident that he is not interested in prosecuting his case. Moreover, the present case cannot be allowed to be pending for filing of claim statement by the workman especially when after availing sufficient and repeated opportunity w.e.f. 11-2-02 till 6-6-03 he failed in complying with the directions of the tribunal.

In the circumstances of the case, the tribunal is left with no other option but to hold that the workman is not interested in contesting the present dispute. Accordingly it is held that the workman is not entitled for any relief in pursuance of the present reference made to this tribunal by the Ministry for want of pleading and proof.

Reference is answered accordingly against the workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 18 जून, 2003

का.आ. 1985.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिविल एविएशन ट्रेनिंग कॉलेज के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 24/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2003 को प्राप्त हुआ था।

[सं. एल-11012/21/2001-आईआर (विविध)]
बी० एम० डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1985.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Civil Aviation Training College and their workman, which was received by the Central Government on 18-6-2003.

[No. L-11012/21/2001-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SARVODAYA
NAGAR, KANPUR, U.P.

Industrial Dispute No. 24 of 2001
In the matter of dispute between
Sri Ram Baboo
Room No 14 CATC
Bamrauli
Allahabad.

AND

The Principal
Civil Aviation Training College
Bamrauli Allahabad

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-11012/21/2001-IR (M),

dated 31-10-2001 has referred the following dispute for adjudication to this tribunal—

“Whether the action of the management of Civil Aviation Training College Bamrauli, Allahabad in terminating the services of Sri Ram Baboo w.e.f. 1-9-99 is justified? If not, to what relief the workman is entitled?”

2. In the instant case on receipt of reference order registered notice was sent on 2-1-2002 to the workman to file his statement of fixing a date as 11-2-02. On 11-2-02 one Sri G.K. Sinha appeared in the case on behalf of the workman and filed his authority in the case along with application for adjournment. The application was allowed and the case was fixed for 22-6-03. The authorised representative again appeared on 22-3-02 but instead of filing of statement of claim sought further adjournment in the case by moving application which was allowed and the case was fixed on 2-5-02. Thereafter repeated opportunities were given to the workman to file statement of claim but the workman failed in filing his statement of claim in the case. Finally when the case was taken up for hearing on 6-6-03, the authorised representative for the workman appeared on behalf of the workman but did not file statement of claim nor moved any application for time to file the same.

3. Thus from the conduct and behaviour of the workman it is quite evident that he is not interested in prosecuting his case. Moreover, the present case cannot be allowed to be pending for filing of statement of claim by the workman especially when after availing of sufficient and repeated opportunity with effect from 11-2-02 till 6-6-03 he failed in complying with the directions of the Tribunal.

4. In the circumstances of the case, the tribunal is left with no other option but to hold that the workman is not interested in contesting the present dispute. Accordingly it is held that the workman is not entitled for any relief in pursuance of the present reference made to this tribunal for want of pleading and proof.

5. Reference is answered accordingly against the workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 18 जून, 2003

का. आ. 1986.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामर्धा क्रोमाईट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 340/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2003 को प्राप्त हुआ था।

[सं. एल-29012/117/99-आईआर (विविध)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1986.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 340/2001) of the Central Government Industrial Tribunal-cum-Labour Court Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kamardha Chromite Mines and their workman, which was received by the Central Government on 17-6-2003.

[No. L-29012/117/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT BHUBANESHWAR

Present :

Shri S. K. Dhal, OSJS, (Sr. Branch)
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 340/2001

Date of conclusion of hearing—7th May 2003

Date of Passing Award—29th May 2003

Between :

(a) The Director, Kamardha
Chromite Mines,
M/s. B.C. Mohanty & Sons,
Rajabagicha, Cuttack—753009.

(b) Shri Mobarak Ali & Others,
At/Po/Ps. Sukinda, Dist. Jajpur.

... 1st Party-
Managements

(And)

Their Workman
Shri Ramachandra Badhra,
Represented through the Treasurer,
Sukinda Upatyaka Mines
Workers' Union At. Dbalagiri,
P.O. Jajpur Road, Jajpur

... 2nd Party Union.

Appearances :

M/s Rajkishore Sahoo, Advocate. ... For the 1st Party-
Managements.

M/s. Prabhakar Jena, Advocate. ... For the 2nd
Party-Workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/117/99/IR (M), dated 22-2-2000 :—

“Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Ramachandra Badhra or the workman has abandoned his job on his own? If not, to what relief (If any) is the workman entitled?”

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to maintain piece in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated and Corrected by me.

S. K. DHAL, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL,
BHUBANESHWAR

I. D. Case No. 340 of 2001

Kamardha Chromite Mines of
M/s. B.C. Mohanty & Sons (P) Ltd.
and another.

... Ist Parties.

Vrs.

Ramachandra Badhra

... 2nd Party.

FORM - H

(See Rule-58)

FOR MEMORANDUM OF SETTLEMENT:

- Name of Parties :
- (i) Kamardha Chromite Mines
M/s. B.C. Mohanty & Sons
 - (ii) Mr. Abdul Sattar, Contractor
being dead, substituted by his
sons Mobarak Ali, Mustak Ali,
Manjoor Ali.
- Representing
Employer (s)
- (i) First Party No. 1 Mr. Prakash
Chandra Mohanty, Managing
Director of M/s. B.C. Mohanty
& Sons (P) Ltd. of Kamardha
Chromite Mines.
 - (ii) First Party No. 2 Mumtaz Ali
S/o. Late Abdul Sattar.

Representing Workman : Ramachandra Badhra

SHORT RECITAL OF THE CASE

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication in the above Industrial Dispute Case on the following issue.

"Whether the management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman or the workman has abandoned his job on his own? If not what relief (if any) is the workman entitled?"

2. That in the dispute case, the workman has filed its written statement denying the said claim.

3. But to avoid prolonged litigation and expenses both the employers and workman have decided to settle the matter finally and permanently, and they have settled in the following terms and conditions :

- (i) That the workman has not received his wages for the period, he worked;
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman;
- (iii) The employers will have no objection if the workman will join in his work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandonment;
- (iv) The employers had paid a total sum of Rs. 7500/- (Seven thousand five hundred only) today to the workman towards his unpaid wages and leave wages and for all other benefits;
- (v) The workman has received the said amount of Rs. 7500/- as full and final satisfaction towards all his dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the employers and he can not claim more status than he was nor he shall approach any higher court nor he can claim any thing about above said dispute in any court in future;
- (vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises.

WITNESSES:

1. Debendra Nath Sonal
Rajabagicha, Cuttack.

For B.C. Mohanty & Sons (P) Ltd.
Sd/-

Managing Director

Sd/-

Signature of First Party No. 1

2. Ramani Ranjan Das
Rajabagicha, Cuttack;

Sd/-

Signature of First Party No. 2

Signature of Workman

नई दिल्ली, 18 जून, 2003

का. आ. 1987.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामर्धा क्रोमाईट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 338/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/114/99-आईआर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1987.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 338/2001) of the Central Government Industrial Tribunal-cum-Labour Court Bhubaneshwar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kamardha Chromite Mines and their workman, which was received by the Central Government on 17-06-2003.

[No. L-29012/114/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT,
BHUBANESHWAR

PRESENT:

Shri S. K. Dhal, OSJS, (Sr. Branch)
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneshwar.

Tr. INDUSTRIAL DISPUTE CASE NO. 338/2001

Date of conclusion of hearing—7th May, 2003

Date of Passing Award—29th May, 2003

Between

(a) The Director, Kamardha
Chromite Mines.
M/s. B.C. Mohanty & Sons,
Rajabagicha, Cuttack—753009.

(b) Shri Mobarak Ali & Others,
At/Po/Ps. Sukinda, Dist. Jajpur. ... 1st Party-
Managements

(And)

Their Workman
Shri Duka Baipai
Represented through the Treasurer,
Sukinda Upatyaka Mines
Workers' Union At. Dabalagiri,
PO Jajpur Road, Jajpur ... 2nd Party Union.

Appearances :

M/s Rajkishore Sahoo, Advocate. ... For the 1st Party-
Managements.

M/s. Prabhakar Jena, Advocate. ... For the 2nd
Party-Union.

AWARD

The Government of India in the Ministry of Labour in exercise of Powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/114/99/IR (M), dated 22-02-2000 :—

“Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Duka Baipai or the workman has abandoned his job on his own ? If not, to what relief (if any) is the workman entitled?”

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to maintain piece in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL,
BHUBANESHWAR

I. D. Case No. 338 of 2001

Kamardha Chromite Mines of
M/s B.C. Mohanty & Sons (P) Ltd.
and another. ... 1st Parties.

Vrs.

Duka Baipai ... 2nd Party.

FORM-H

(See Rule-58)

FORM FOR MEMORANDUM OF SETTLEMENT:

Name of Parties : (i) Kamardha Chromite Mines
M/s. B.C. Mohanty & Sons

(ii) Mr. Abdul Sattar, Contractor
being dead, substituted by his
sons Mobarak Ali, Mumtaz Ali
Mustak Ali, Manjoor Ali.

Representing
Employer (s) : (i) First Party No. 1 Mr. Prakash
Chandra Mohanty, Managing
Director of M/s. B.C. Mohanty
& Sons (P) Ltd. of Kamardha
Chromite Mines.

(ii) First Party No. 2 Mumtaz Ali
S/o. Late Abdul Sattar.

Representing Workman: Duka Baipai

claim at all for this dispute against the employers
and he can not claim more status than he was nor
he shall approach any other court nor he can claim
any thing about said dispute in any court in future;

(vi) The employers agree to give necessary police help
to the workman as per law, if any occasion arises;

WITNESSES:

1. Debendra Nath Somal
Rajabagicha, Cuttack.

For B.C. Mohanty & Sons (P) Ltd.

Sd/-

Managing Director
Signature of First Party No. 1

2. Ramani Ranjan Das
Rajabagicha, Cuttack

Signature of First Party No. 2

Sd/-

Signature of Workman

नई दिल्ली, 18 जून, 2003

1. The Central Government has referred the dispute
between the parties to this Hon'ble Tribunal for adjudication
in the above Industrial Dispute Case on the following issue.

"Whether the management of Kamardha Chromite
Mines of M/s. B.C. Mohanty & Sons have resorted
to illegally terminating the services of the aforesaid
workman or the workman has abandoned his job on
his own? If not what relief (if any) is the workman
entitled?"

2. That in the dispute case, the workman has filed his
regular claim and the First Party No. 1 has filed its written
statement denying the said claim.

3. But to avoid prolonged litigation and expenses
both the employers and workman have decided to settle
the matter finally and permanently, and they have settled
in the following terms and conditions:

- (i) That the workman has not received his wages for
the period, he worked;
- (ii) That the employers have never instigated nor they
will instigate the existing Trade Union against the
workman.
- (iii) The employers will have no objection if the
workman will join in his work, they will allow the
workman to join in their workman and to work as
a workman as he was before at the time of
abandonment.
- (iv) The employers had paid a total sum of Rs. 7500/-
(Seven thousand five hundred only) today to the
workman towards his unpaid wages and leave
wages and for all other benefits.
- (v) The workman has received the said amount of
Rs. 7500/- as full and final satisfaction towards all
his dues arising out of the above dispute case
and this dispute has been settled finally and
permanently. The workman will have no other

का. आ. 1988.—औद्योगिक विवाद अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामर्धा. क्रोमाईट
माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच,
अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक
अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 337/2001) को प्रकाशित
करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/113/99-आईआर (विविध)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1988.—In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the Central
Government hereby publishes the award (Ref. No. 337/
2001) of the Central Government Industrial Tribunal-cum-
Labour Court, Bhubaneshwar now as shown in the
Annexure in the Industrial Dispute between the employers
in relation to the management of Kamardha Chromite Mines
and their workman, which was received by the Central
Government on 17-06-2003.

[No. L-29012/113/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT,
BHUBANESHWAR

PRESENT:

Shri S. K. Dhal, OSJS, (Sr. Branch)
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneshwar.

Tr. INDUSTRIAL DISPUTE CASE NO. 337/2001

Date of conclusion of hearing—07th May, 2003

Date of Passing Award—28th May, 2003

BETWEEN:

(a). The Director, Kamardha
Chromite Mines,
M/s. B. C. Mohanty & Sons,
Rajabagicha, Cuttack—753009.

(b) Shri Mobarak Ali & Others,
At/Po/Ps. Sukinda. Dist. Jajpur.

... 1st Party-
Managements

AND

Their Workman
Shri Mangal Gagarai,
Represented through the Treasurer,
Sukinda Upatyaka Mines
Workers' Union At. Dabalagiri,
P.O. Jajpur Road, Jajpur

... 2nd Party Union.

APPEARANCES:

M/s Rajkishore Sahoo, Advocate. ... For the 1st Party-
Managements.

M/s. Prabhakar Jena, Advocate. ... For the 2nd
Party-Union.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/113/99/IR (M), dated 22-02-2000:—

"Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Mangal Gagarai or the workman has abandoned his job on his own? If not, to what relief (if any) is the workman entitled?"

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to

maintain piece in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated and Corrected by me.

S. K. DHAL, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL,
BHUBANESHWAR

I. D. Case No. 337 of 2001;

Kamardha Chromite Mines of
M/s B.C. Mohanty & Sons (P) Ltd.
and another.

... 1st Parties.

Vrs.

Mangal Gagarai

... 2nd Party.

FORM-H

(See Rule-58)

FORM FOR MEMORANDUM OF SETTLEMENT:

Name of Parties: (i) Kamardha Chromite Mines
M/s. B.C. Mohanty & Sons.

(ii) Mr. Abdul Sattar, Contractor
being dead, substituted by his
sons Mobarak Ali, Mumtaz Ali
Mustak Ali, Manjoor Ali.

Representing
Employer(s):

(i) First Party No. 1 Mr. Prakash
Chandra Mohanty, Managing
Director of M/s. B.C. Mohanty &
Sons (P) Ltd. of Kamardha
Chromite Mines.

(ii) First Party No. 2 Mumtaz Ali
S/o. Late Abdul Sattar.

Representing
Workman

: Mangal Gagarai

SHORT RECITAL OF THE CASE

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication in the above Industrial Dispute Case on the following issue.

"Whether the management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman or the workman has abandoned his job on his own? If not what relief (if any) is the workman entitled?"

2. That in the dispute case, the workman has filed his regular claim and the First Party No. 1 has filed its written statement denying the said claim.

3. But to avoid prolonged litigation and expenses both the employers and workman have decided to settle the matter finally and permanently, and they have settled in the following terms and conditions:

- (i) That the workman has not received his wages for the period, he worked;
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman;
- (iii) The employers will have no objection if the workman will join in his work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandoned;
- (iv) The employers had paid a total sum of Rs. 7500/- (Seven thousand five hundred) only today to the workman towards his unpaid wages and leave wages and for all other benefits;
- (v) The workman has received the said amount of Rs. 7500/- as full and final satisfaction towards all his dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the employers and he can not claim more status than he was nor he shall approach any higher Court nor he can claim anything about above said dispute in any court in future;
- (vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises.

WITNESSES:

1. Debendra Nath Sonal
Rajabagicha, Cuttack.

Sd/-Illegible.

For B.C. Mohanty & Sons (P) Ltd.

Managing Director

Signature of First Party No. 1

Sd/- illegible

2. Ramani Ranjan Das
Rajabagicha, Cuttack

For self and Power of attorney holder of Mobarak Ali, Mustak Ali, Manjoor Ali.

Signature of First Party No. 2

Sd/- illegible

Signature of Workman

नई दिल्ली, 18 जून, 2003

का. आ. 1989.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामार्धा क्रोमाईट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 336/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/112/99-आई आर (विविध)]

बी० एम० डेविड, अवसर सचिव

New Delhi, the 18th June, 2003

S.O. 1989.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 336/2001) of the Central Government Industrial Tribunal-cum-Labour Court Bhubaneswar as shown in the Annexure in

the Industrial Dispute between the employers in relation to the management of Kamardha Chromite Mines and their workman, which was received by the Central Government on 17-06-2003.

[No. L-29012/112/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT
BHUBANESHWAR**

Present :

Shri S. K. Dhal, OSJS, (Sr. Branch)
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 336/2001

Date of conclusion of hearing - 7th May, 2003

Date of Passing Award - 28th May, 2003

Between :

(a) The Director, Kamardha
Chromite Mines,
M/s. B.C. Mohanty & Sons,
Rajabagicha, Cuttack - 753009.

(b) Shri Mobarak Ali & Others,
At/Po/Ps. Sukinda, Dist. Jajpur.

Ist Party-
Management.

And

Their Workman Shri Turi Sundhi,
Represented through the Treasurer,
Sukinda Upatyaka Mines
Workers' Union At. Dabalagiri,
P.O. Jajpur Road, Jajpur

... 2nd Party Union

Appearances :

M/s. Rajkishore Sahoo, Advocate. ... For the Ist Party-
Managements

M/s. Prabhakar Jena, Advocate. ... For the 2nd
Party-Union

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/112/99/IR (M), dated 22-02-2000 :—

“Whether the management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Turi Sundhi or the workman has abandoned his job on his own? If not, to what relief (if any) is the workman entitled?”

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No.1 has also filed their Written Statement. The legal heir of the Contractor (Management

No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to maintain peace in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

BEFORE THE PRESIDING OFFICER : CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL
BHUBANESHWAR

I. D. Case No. 336 of 2001

Kamardha Chromite Mines of
M/s B.C. Mohanty & Sons (P) Ltd.
and another.

... Ist Parties.

Vs.

Tuni alias Turi Sundhi

... 2nd Party.

FORM-H

(See Rule 58)

FORM FOR MEMORANDUM OF SETTLEMENT

Name of Parties : (i) Kamardha Chromite Mines
M/s. B.C. Mohanty & Sons.
(ii) Mr. Abdul Sattar, Contractor
being dead, substituted by his
sons Mobarak Ali, Mumtaz Ali
Mustak Ali, Manjoor Ali.

Representing (i) First Party No. 1 Mr. Prakash
Employers (s) : Chandra Mohanty, Managing
Director of M/s. B.C. Mohanty
& Sons (P) Ltd. of Kamardha
Chromite Mines.
(ii) First Party No. 2 Mumtaz Ali
S/o. Late Abdul Sattar.

Representing : Turi Sundhi
Workman

SHORT RECITAL OF THE CASE

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication

in the above Industrial Dispute Case on the following issue:

"Whether the management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman or the workman has abandoned his job on his own ? If not what relief (if any) is the workman entitled ?"

2. That in the dispute, the workman has filed his regular claim and the First Party No. 1 has filed its written statement denying the said claim :

3. But to avoid prolonged litigations and expenses both the employers and workman have decided to settle the matter finally and permanently, and they have settled in the following terms and conditions;

- (i) That the workman has not received his wages for the period, he worked;
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman.
- (iii) The employers will have no objection if the workman will join in his work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandonment;
- (iv) The employers had paid a total sum of Rs. 7500/- (Seven thousand five hundred) only today to the workman towards his unpaid wages and leave wages and for all other benefits;
- (v) The workman has received the said amount of Rs. 7500/- as full and final satisfaction towards all his dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the employers and he can not claim more status than he was nor he shall approach any higher Court nor he can claim any thing about above said dispute in any court in future;
- (vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises.

WITNESSES:

1. Debendra Nath Sonal
Rajabagicha, Cuttack.

Sd/-illigible
For B.C. Mohanty & Sons (P) Ltd.
Managing Director
Signature of First Party No. 1

Sd/-illigible

2. Ramani Ranjan Das
Rajabagicha, Cuttack

For self and Power of
attorney holder of Mobarak
Ali, Mustak Ali, Manjoor
Ali.

Signature of First Party No. 2

Sd/-illigible

Signature of Workman

नई दिल्ली, 18 जून, 2003

का. आ. 1990.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामार्धा क्रोमाईट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 335/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/111/99-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1990.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 335/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Kamardha Chromite Mines and their workman, which was received by the Central Government on 17-06-2003.

[No. L-29012/111/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR****Present :**

Shri S.K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE No. 335/2001

Date of conclusion of hearing—7th May 2003,

Date of Passing Award—28th May, 2003.

Between:

(a) The Director, Kamardha
Chromite Mines,
M/s. B.C.
Mohanty & Sons,
Rajabagicha, Cuttack—753 009

(b) Shri Mobarak Ali & Others,
At/PO/PS. Sukinda, Dist. Jajpur. 1st Party—
Managements.

And

Their Workman Shri Pana Das,
Represented through the
Treasurer, Sukinda Upatyaka
Mines Workers' Union, At.
Dabalagiri, P.O. Jajpur Road,
Jajpur.

... 2nd Party—
Union.**Appearances:**

M/s. Rajkishore Sahoo,
Advocate.

... For the 1st Party—
Managements.

M/s. Prabhakar Jena,
Advocate.

... For the 2nd Party—
Union.**AWARD**

The Government of India in the Ministry of Labour in exercise of Powers conferred by Clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/111/99/IR(M), dated 21-02-2000 :—

"Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd., have resorted to illegally terminating the services of Shri Pana Das or the workman has abandoned his job on his own? If not, to what relief (if any) is the workman entitled?"

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party—Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party—Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to maintain piece in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL
BHUBANESWAR**

Industrial Tribunal : Bhubaneswar
I. D. Case No. 335 of 2001

Kamardha Chromite Mines of
M/s. B.C. Mohanty & Sons (P) Ltd.,
and another ... 1st Parties.

V/s.

Panna Das ... 2nd Party

FORM—H

(See Rule—58)

FORM FOR MEMORANDUM OF SETTLEMENT :

Name of Parties : (i) Kamarda Chromite Mines
M/s. B. C. Mohanty &
Sons.

(ii) Mr. Abdul Sattar, Contractor being dead, substituted by his sons Mobarak Ali, Mumtaz Ali, Mustak Ali, Manjoor Ali

Representing Employer(s): First Party No. 1 Mr. Prakash Chandra Mohanty, Managing Director of M/s. B. C. Mohanty & Sons (P) Ltd. of Kamardha Chromite Mines.

(ii) First Party No. 2 Mumtaz Ali S/o late Abdul Sattar.

Representing Workman : Pana Das

SHORT RECITAL OF THE CASE:

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication in the above Industrial Dispute Case on the following issue.

"Whether the management of Kamardha Chromite Mines of M/s. B. C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman or the workman has abandoned his job on his own? If not what relief (if any) is the workman entitled?"

2. That in the dispute case, the workman has filed his regular claim and the First Party No. 1 has filed its written Statement denying the said claim.

3. But to avoid prolonged litigations and expenses both the employers and workman have decided to settle the matter finally and permanently and they have settled in the following terms and conditions:

- (i) That the workman has not received his wages for the period, he worked;
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman;
- (iii) The employer will have no objection if the workman will join in his work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandonment;
- (iv) The employers had paid a total sum of Rs. 7,500/- (Seven thousand five hundred only) today to the workman towards his unpaid wages and leave wage and for all other benefits;
- (v) The workman has received the said amount of Rs. 7,500/- as full and final satisfaction towards all this dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the

employers and he cannot claim more status than he was nor he shall approach any higher court nor he can claim any thing above about said dispute in any court in future;

(vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises;

WITNESSES:

For B.C. Mohanty & Sons (P) Ltd.
Sd/-
Managing Director

1. Debendranath Somai
Rajabagicha,
Cuttack.

Signature of First Party No. 1

for Self & Power of attorney holder of
Mubarak Ali, Mustak Ali, Manzoor Ali
Signature of First Party No. 2

2. Ramani Ranjan Dass,
Rajabagicha
Cuttack

Signature of workman.

नई दिल्ली, 18 जून, 2003

का. आ. 1991.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामार्धा क्रोमाईट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 333/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/109/99-आई आर (विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1991.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 333/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Kamardha Chromite Mines and their workman, which was received by the Central Government on 17-06-2003.

[No. L-29012/109/99-1R(M)]
B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 333/2001

Date of conclusion of hearing: 7th May, 2003

Date of Passing Award: 27th May, 2003

BETWEEN:

- (a) The Director, Kamardha
Chromite Mines,
M/s. B.C. Mohanty & Sons,
Rajabagicha, Cuttack-753009.
- (b) Shri Mobarak Ali & Others,
At/Po/Ps. Sukinda, Dist. Jajpur. 1st Party
Managements.

AND

Their Workman Shri Santosh
Samad, Represented through the
Treasurer, Sukinda Upatyaka
Mines Workers' Union,
At. Dabalagiri, P.O. Jajpur Road,
Jajpur. 2nd Party
Union

APPEARANCES:

M/s. Rajkishore Sahoo,
Advocate For the 1st Party-
Managements.

M/s. Prabhakar Jena,
Advocate For the 2nd Party-
Union.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/109/99/IR(M), dated 22-02-2000:—

“Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Santosh Samad or the workman has abandoned his job on his own? If not, to what relief (if any) is the workman entitled?”

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for Settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to maintain peace in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated and Corrected by me.

S. K. DHAL, Presiding Officer

BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL:
BHUBANESWAR

I. D. Case No. 333/2001

Kamardha Chromite Mines of
M/s. B.C. Mohanty & Sons (P) Ltd.
and another 1st Parties

Vs.

Santosh Samad 2nd Party

FORM—H
(See Rule-58)

FORM FOR MEMORANDUM OF SETTLEMENT:

Name of Parties : (i) Kamardha Chromite
Mines M/s. B. C.
Mohanty & Sons

(ii) Mr. Abdul Sattar,
Contractor being dead,
substituted by his sons
Mobarak Ali, Mumtaz
Ali, Mustak Ali, Manjoor
Ali.

Representing Employer(s): First Party No. 1 Mr. Prakash
Chandra Mohanty,
Managing Director of
M/s. B. C. Mohanty &
Sons (P) Ltd. of
Kamardha Chromite
Mines.

(ii) First Party No. 2
Mumtaz Ali S/o late
Abdul Sattar.

Representing Workman : Santosh Samad

SHORT RECITAL OF THE CASE

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication in the above Industrial Dispute Case on the following issue :

“Whether the management of Kamardha Chromite Mines of M/s. B. C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman or the workman has abandoned his job on his own ? If not what relief (if any) is the workman entitled ?”

2. That in the dispute case, the workman has filed his regular claim the First Party No. 1 has filed its Written Statement denying the said claim.

3. But to avoid prolonged litigations and expenses both the employers and workman have decided to settle the matter finally and permanently and they have settled in the following terms and conditions :

- (i) That the workman has not received his wages for the period he worked;
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman;
- (iii) The employer will have no objection if the workman will join in his work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandonment;
- (iv) The employers had paid a total sum of Rs. 7,500 (Rupees Seven thousand Five hundred only) today to the workman towards his unpaid wages and leaves wages and for all other benefits ;
- (v) The workman has received the said amount of Rs. 7,500 as full and final satisfaction towards all his dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the employers and he cannot claim more status than he was nor he shall approach any higher court nor he can claim anything about above said dispute in any court in future;
- (vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises.

WITNESSES:

For B. C. Mohanty & Sons (P) Ltd.
Sd/- Illegible
Managing Director

1. Debendranath Somal
Rajabagicha
Cuttack

Signature of First Party No. 1

For Self & Power of Attorney holder of
Mubarak Ali, Mustak Ali, Manzoor Ali

Signature of First Party No.2

2. Ramani Ranjan Dass
Rajabagicha
Cuttack

Sd/- Illegible
Signature of workman.

नई दिल्ली, 18 जून, 2003

का. आ. 1992.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामार्था क्रोमाईट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 331/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/107/99-आई आर (विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1992.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 331/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneshwar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kamardha Chromite Mines and their workmen, which was received by the Central Government on 17-06-2003.

[No. L-29012/107/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Sliri S.K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneshwar.

Tr. INDUSTRIAL DISPUTE CASE NO. 331/2001

Date of conclusion of hearing : 7th May, 2003

Date of Passing Award : 27th May, 2003

BETWEEN:

(a) The Director, Kamardha
Chromite Mines,
M/s. B.C. Mohanty & Sons,
Rajabagicha, Cuttack—753 009

(b) Shri Mobarak Ali & Others,
At/PO/Ps. Sukinda,
Dist. Jajpur.

... 1st Party-
Managements.

AND

Their Workman Shri Arjun Sethy,
Represented through the
Treasurer, Sukinda Upatyaka
Mines Workers' Union,
At. Dabalagiri, P.O. Jajpur Road,
Jajpur.

... 2nd Part-
Union.

APPEARANCES:

M/s. Rajkishore Sahoo,
Advocate

... For the 1st Party-
Managements.

M/s. Prabhakar Jena,
Advocate

... For the 2nd Party-
Union.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial

Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/107/99/IR(M), dated 22-02-2000 :—

“Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Arjun Sethy or the workman has abandoned his job on his own? If not, to what relief (if any) is the workman entitled?”

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to maintain piece in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL
TRIBUNAL : BHUBANESWAR
I. D. Case No. 331 of 2001**

Kamardha Chromite Mines of
M/s. B.C. Mohanty & Sons (P) Ltd.
and another ... 1st Parties.

Vrs.

Arjun Sethy 2nd Party

FORM—H

(See Rule-58)

FORM FOR MEMORANDUM OF SETTLEMENT:

Name of Parties : (i) Kamardha Chromite Mines M/s. B. C. Mohanty & Sons.
(ii) Mr. Abdul Sattar, Contractor being dead, substituted by his sons

Mobarak Ali, Mumtaz Ali, Mustak Ali, Manjoor Ali.

Representing Employer(s) :

First Party No. 1
Mr. Prakash Chandra Mohanty, Managing Director of M/s. B. C. Mohanty & Sons (P) Ltd of Kamardha Chromite Mines.

(ii) First Party No. 2 Mumtaz Ali S/o late Abdul Sattar.

Representing Workman :

Arjun Sethy

SHORT RECITAL OF THE CASE:

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication in the above Industrial Dispute Case on the following issue.

“Whether the management of Kamardha Chromite Mines of M/s. B. C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman has abandoned his job on his own? If not what relief (if any) is the workman entitled?”

2. That in the dispute case, the workman has filed his regular claim and the First Party No. 1 has filed its written Statement denying the said claim.

3. But to avoid prolonged litigations and expenses both the employers and workman have decided to settle the matter finally and permanently and they have settled in the following terms and conditions :

- (i) That the workman has not received his wages for the period, he worked ;
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman ;
- (iii) The employers will have no objection if the workman will join in his work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandonment ;
- (iv) The employers had paid a total sum of Rs. 7,500/- (Seven thousand five hundred only) today to the workman towards his unpaid wages and leave wages and for all other benefits ;
- (v) The workman has received the said amount of Rs. 7,500/- as full and final satisfaction towards all his dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the employers and he can not claim more status than he was nor he shall approach any higher court nor he can claim anything about above said dispute in and court in future ;

- (vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises.

WITNESSES:

For B. C. Mohanty & Sons (P) Ltd.
Sd/- Illegible
Managing Director

1. Debendra Nath Somal
Rajabagicha, Cuttack.

Signature of First Party No. 1
Sd-

For Self of Power of Attorney holder of Mobarak Ali,
Mustak Ali, Manjoor Ali

Singnture of First Party. No. 2
Thumb Impression

2. Ramani Ranjan Das,
Rajabagicha, Cuttack.

Signature of Workman

नई दिल्ली, 18 जून, 2003

का. आ. 1993.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कामर्धा क्रोमाइट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 332/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/108/99-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1993.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 332/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kamardha Chromite Mines and their workman, which was received by the Central Government on 17-06-03.

[No. L-29012/108/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

PRESENT:

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 332/2001

Date of conclusion of hearing, 7th May, 2003

Date of Passing Award—27th May, 2003.

BETWEEN:

(a) The Director, Kamardha Chromite Mines,
M/s B.C. Mohanty & Sons,
Rajabagicha, Cuttack – 753009

(b) Shri Mobarak Ali & Others,
At/Po/Ps. Sukinda, Dist. Jajpur. ... 1st Party-
Management

(And)

Their Workman Shri Krupasindhu Mohanta,
Represented through the Treasurer,
Sukinda Upatyaka Mines Workers' Union,
At. Dabalagiri, P.O. Jajpur Road, Jajpur.
... 2nd Party-Union.

APPEARANCES:

M/s. Rajkishore Sahoo, Advocate
... For the 1st Party-
Managements.

M/s. Prabhakar Jena, Advocate
... For the 2nd Party-
Union.

AWARD

The Government of India in the Ministry of Labour in exercise of Powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/108/99/IR (M), dated 22-2-2000 :—

“Whether the Management of Kamardha Chromite Mines of M/s. B.C. Mohanty & Sons (P) Ltd. have resorted to illegally terminating the services of Shri Krupasindhu Mohanta or the workman has abandoned his job on his own? If not, to what relief (if any) is the workman entitled?”

2. The 2nd Party has filed his Claim Statement. The 1st Party-Management No. 1 has also filed their Written Statement. The legal heir of the Contractor (Management No. 2) has not filed any separate Written Statement and they have prayed to adopt the Written Statement filed by the 1st Party-Management No. 1.

3. On receipt of the copy of the reference from the Government of India the 2nd Party and the 1st Party-Management No. 1 appeared before the Tribunal. The original Contractor Mr. Abdul Sattar, Management No. 2 died so his legal heirs have been substituted. The leave of the Tribunal was given to both the parties to be represented through Advocates.

4. When the case is posted for settlement of Issues, both the parties have filed a Memorandum of Settlement in Form-H with a petition to pass the award according to the terms of the Memorandum of Settlement on the ground to maintain piece in future between the parties and to avoid future litigation.

5. Reference is answered accordingly in terms of the Memorandum of Settlement, which would form part of the award.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

**BEFORE THE PRESIDING OFFICER :
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL : BHUBANESHWAR**

I. D. Case No. 332 of 2001

Kamarda Chromite Mines of
M/s. B.C. Mohanty & Sons (P) Ltd.
and another
1st Parties.

Vrs.

Krupasindhu Mohanta

...
2nd Parties.

FORM-H

(See Rule - 58)

FORM FOR MEMORANDUM OF SETTLEMENT:

Name of Parties : (i) Kamarda Chromite
Mines M/s. B. C.
Mohanty & Sons.
(ii) Mr. Abdul Sattar,
Contractor being dead,
substituted by his sons
Mobarak Ali, Mumtaz
Ali, Mustak Ali, Manjoor
Ali.

Representing Employer(s) : First Party No. 1
Mr. Prakash Chandra
Mohanty, Managing
Director of M/s. B. C.
Mohanty & Sons (P)
Ltd. of Kamarda Chromite
Mines.
(ii) First Party No. 2 Mumtaz
Ali S/o late Abdul Sattar.

Representing Workman : Krupasindhu Mohanta

SHORT RECITAL OF THE CASE.

1. The Central Government has referred the dispute between the parties to this Hon'ble Tribunal for adjudication in the above Industrial Dispute Case on the following issue.

"Whether the management of Kamarda Chromite Mines of M/s. B. C. Mohanty & Sons have resorted to illegally terminating the services of the aforesaid workman or the workman has abandoned his job on his own? If not what relief (if any) is the workman entitled?"

2. That in the dispute case, the workman has filed his regular claim and the First Party No. 1 has filed its written Statement denying the said claim.

3. But to avoid prolonged litigations and expenses both the employers and workman have decided to settle the matter finally and permanently and they have settled in the following terms and conditions.

- (i) That the workman has not received his wages for the period, he worked ;
- (ii) That the employers have never instigated nor they will instigate the existing Trade Union against the workman ;
- (iii) The employer will have no objection if the workman will join in his work, they will allow the workman to join in their works and to work as a workman as he was before at the time of abandonment ;
- (iv) The employers had paid a total sum of Rs. 7,500/- (Seven thousand five hundred only) today to the workman towards his unpaid wages and leave wages and for all other benefits ;
- (v) The workman has received the said amount of Rs. 7,500/- as full and final satisfaction towards all his dues arising out of the above dispute case and this dispute has been settled finally and permanently. The workman will have no other claim at all for this dispute against the employers and he can not claim more status than he was nor he shall approach any higher court nor he can claim any thing about above said dispute in and court in future ;
- (vi) The employers agree to give necessary police help to the workman as per law, if any occasion arises.

WITNESSES:

For B. C. Mohanty & Sons (P) Ltd.

1. Debendranath Somai sd/-
Rajabagicha Managing Director
Cuttack sd/-

Signature of First Party No. 1

sd/-

Signature of First Party No.2

2. Ramani Ranjan Dass
Rajabagicha
Cuttack
Thumb Impression
Signature of workman.

नई दिल्ली, 18 जून, 2003

का. आ. 1994.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मोहबत्ताबाद सिलिका सेण्ड माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके

कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 69/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/11/2002-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1994.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/2002) of the Central Government Industrial Tribunal-cum-Labour Court. New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mohabatabad Silica Sand Mine and their workman, which was received by the Central Government on 17-06-2003.

[No. L-29012/11/2002-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NEW DELHI

PRESIDING OFFICER : SHRI B. N. PANDEY

I. D. NO. 69/2002

Shri Pramod Kumar, (Blaster),
C/o President,
Haryana Kadan Mazdoor Union,
Jain Dera, Dist. Faridabad,
Faridabad.

...Workman

Versus

M/s. Mohabatabad Silica Sand Mine,
1492, Sec. 14, Faridabad,
Faridabad.

...Management

AWARD

The Central Government in the Ministry of Labour vide its order No. L-29012/11/2002/(IR)(M) dated 5-8-2002 has referred the following Industrial Dispute to this Tribunal for adjudication :—

“Whether the action of the Management of M/s. Mohabatabad Silica Sand Mine, Faridabad in terminating the services of Shri Pramod Kumar, Blaster w.e.f. 06-06-2000 is just and legal? If not, to what relief the workman is entitled to?”

2. Reference was registered on 21-8-2002. Six hearings were given for filing of claim statement but despite sufficient notice and several opportunity the workman failed to file claim statement till now. It appears that he is not interested to pursue the case.

3. Hence No Dispute Award is given.

Dated: 5-6-2003. B. N. PANDEY, Presiding Officer

नई दिल्ली, 18 जून, 2003

का. आ. 1995.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्जीनियर्स इण्डिया लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुंबई नं. 2 के पंचाट (संदर्भ संख्या 69/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-30012/27/2000-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1995.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Engineers India Ltd. and their workman, which was received by the Central Government on 17-06-2003.

[No. L-30012/27/2000-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 MUMBAI

PRESENT:

S. N. SAUNDANKAR, Presiding Officer,

REFERENCE NO. CGIT-2/69 OF 2000
EMPLOYERS IN RELATION TO THE
MANAGEMENT OF ENGINEERS INDIA LIMITED

The General Manager,
Engineers India Ltd.,
Nirmal, 11th Floor,
241-42, Nariman Point,
Mumbai-400021

AND

Their workman
Mr. Mohan Y. Mokul,
At: Shihu,
P.O. : Bense,
Tel. : Pen,
Dist. : Raigad.

APPEARANCES:

For the Employer

Mr. S.V. Alva,
Advocate.

For the Workman : Mr. M. B. Anchan,
Advocate.

Mumbai, Dated 26th March, 2003.

AWARD

The Government of India, Ministry of Labour by its Order No. L-30012/27/2000/IR (M) dated 4-7-2000 & 28-8-2000 in exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :-

“Whether the action of the management of Engineers India Ltd., Alibag, in terminating the services of Mr. Mohan Yeshwant Mokhal, ex-Civil Lab Technician w.e.f. 31-12-98 is legal and justified? If not, to what relief the workman concerned is entitled?”

2. Vide Statement of Claim (Exhibit-9) Mohan Mokhal pleaded that he was engaged as Office Boy from 4-10-85 and as Laboratory Technician from 1-1-1990 by the Management Engineers India Ltd. He pleaded that he worked as Office Boy in December 1989 and as Laboratory Technician till 22-4-1992 in Nagothane Laboratory, however he was terminated without assigning any reason. He pleaded that he was taken back in service from 13-4-96 as Laboratory Technician and that he continuously worked till 30-9-98 however again in 1-10-98 without any notice and retrenchment compensation he was terminated. It is his contention that though he worked for Engineers India Ltd. he was paid wages through contractor to deny his claim of regular service. Workman pleaded that despite putting more than 240 days continuous service, he has been terminated illegally, therefore, management be directed to reinstate him in service with full back wages.

3. Management Engineers India Limited resisted the claim of Mokhal by filing Written Statement (Exhibit-11) contending that as per the notification the appropriate Government for the company is the State Government and not the Central Government, therefore, this tribunal has no jurisdiction to entertain and decide the reference. It is further pleaded that Mokhal was never in the service of Management Company and since employer-employee relationship does not exist, consequently reference is not maintainable. It is pleaded by the company that Mokhal was paid wages by the contractor, he was never in the employment of the company therefore question of putting 240 days service and terminating him, does not arise. Consequently company contended to dismiss the claim of Mokhal being devoid of substance.

4. By Rejoinder (Exhibit-13) Mokhal reiterated the recitals in the Statement of Claim denying the averments in the written statement.

5. On the basis of pleadings issues were framed at (Exhibit-15) and in that context Mokhal filed affidavit in lieu of Examination-in-Chief (Exhibit-17) and closed oral evidence vide purshis (Exhibit-19). In rebuttal Senior Personnel and Administrative Officer of the company Mr. Padmanabhan filed affidavit (Exhibit-20) and the management closed evidence vide purshis (Exhibit-21).

6. Mokhal filed written submissions, (Exhibit-22) and the management company (Exhibit-23) along with copies of rulings. On perusing the record, written submissions, and hearing the counsels, I record my findings on the following issues for the reasons mentioned below :—

Issues	Findings
1. Whether the reference is maintainable as averted in para. 2(a) of the written Statement?	Yes.
2. Whether employer-employee relationship exists between Mokhal and Management Company?	No.
3. Does Shri Mohan Yeshwant Mokhal prove that he worked continuously more than 240 days in a year?	Does not survive.
4. Whether the action of the management of Engineers India Ltd. Alibagh in terminating the services of Mr. Mohan Yeshwant Mokhal, Ex-Civil Lab Technician w.e.f. 31-12-98 is legal and proper?	Does not survive.
5. What relief Shri Mohan Yeshwant Mokhal is entitled to?	As per order below.

REASONS

7. At the threshold the Learned Counsel Mr. Alva for the management company submitted that as per the Apex Court the appropriate Government in respect of the company was the Central Government however, Central Government by notification dated, 3rd July 1998 included the company in the schedule mentioning therein that the appropriate Government in respect of the company is the State Government and therefore the State Government is the appropriate Government and not the Central Government. Consequently this Tribunal has no jurisdiction to entertain and decide the reference. Management company though pointed out the notification did not take pain to file the same on record. Therefore as per the decision of the Hon'ble Supreme Court the appropriate Government in respect of the company is the Central Government and consequently this tribunal has jurisdiction in width to entertain and decide the reference, and hence maintainable. Issue No. 1 is answered accordingly.

8. Mr. Alva urged with force that Mokhal was never in the employment of the management company therefore question of completion of 240 days and his termination does not arise. At the same time Mr. Anchan the Learned Counsel for Mr. Mokhal inviting attention to the documents (Exhibit-14) submitted that relationship of employer and employee exists between Mokhal and the company. Mokhal disclosed that he was appointed and terminated by the company however clearly admitted that he was not given appointment letter or the termination letter by the company. According to Mokhal he continuously worked in the company however he was paid wages by the contractor. He admits that he had received experience certificate from Mhatre and Co. He denied that he was in employment of Amar Construction Co. from December 1986 to June 1987 however admits that he was getting wages from the said company. He worked in Chiplunkar and Company from August 1988 to December 1988 and got wages from that company. He also worked in USAR project through contractor and was getting wages from the contractor till September 1998. It is significant to note that Mokhal's contention is that he worked for nine years i.e. from 4-10-1985 to 22-4-1992 and 13-4-1996 to 30-9-1998 with the company, however that has been contradicted by Mokhal himself in view of the above said admissions for the simple reason that one cannot work at a time with two companies. When Mokhal received experience certificate from Mhatre and Company worked with V.V. Chiplunkar & Co. supports the contention of company that he was not in its employment. Mokhal in his application No. 2/431 of 2000 under Section 33 C(2) of the Act in para 2 averred that he was asked by the management company to work for the various contractors such as Gas Authority of India Ltd., Alibagh, MVR constructions which indicative to show that he actually did not work for the management company but worked with contractors.

9. Senior Personnel Administrative Officer Mr. Padmanabhan clearly stated that Mokhal was never employed by the company. In cross-examination para 10 no doubt he admitted that letter pg. 3, 5, 7 (Exhibit-14) were issued by the company. Mr. Anchan made much capital of these letters to connect Mokhal with the company. On plain reading of these letters show that Mokhal was man of contractor and he was given gate pass for company. It does not mean that he worked in the company as employee of the company. Mr. Padmanabhan has given clarification on test reports pg. 14, 38 (Exhibit-14) that Gas Authority is the owner of the project and the contractor set up the labourers to conduct the tests, therefore, these test reports are not avail for Mokhal to establish employer-employee relationship. It is to be noted that Rules, Regulations and Procedure are laid down for appointment in the company. Mokhal was admittedly not given appointment letter nor termination letter by the company. As stated above, since employer-employee relationship between Mokhal and the company does not exist question of completion of 240

days and terminating him in the light of the provisions of Section 25 of the Industrial Disputes Act, does not arise. Consequently workman is not entitled to any relief and that his claim being devoid of substance deserves to be dismissed. Issues are answered accordingly and hence the order :—

ORDER

Mohan Mokhal since not in the employment of Management Company question of his termination by the company does not arise and that his claim being devoid of substance stands dismissed.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 18 जून, 2003

का. आ. 1996.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट ऑथोरिटी ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुंबई नं. 2 के पंचाट (संदर्भ संख्या 82/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-11012/18/97-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1996.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/98) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 17-06-2003.

[No. L-11012/18/97-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

S. N. Saundankar, Presiding Officer

Reference No. CGIT-2/82 of 1998

Employers in relation to the Management of
Airports Authority of India (IAD)
Deputy General Manager,
Airports Authority of India (IAD)
Mumbai Airport, Santacruz,
Mumbai-400 099.

AND**Their Workmen**

The General Secretary,
Airports Authority of India Mazdoor Sangh,
25/32, Ibrahim Mansion,
Dr. B.R. Ambedkar Road,
Parel, Mumbai-400 012.

APPEARANCES:

For the Employer : Mr. S. S. Patil,
Representative

For the Workmen : Mr. R. S. Savant,
Representative.

Mumbai, Dated 18th March, 2003

AWARD

The Government of India Ministry of Labour by its Order No. L-11012/18/97/IR (M) dated 15-6-1998 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Airport Authority of India, Mumbai to award the punishment of reduction to the lowest stage on Shri R.S. Pol, Fire Foreman is justified? If not, to what relief the workman is entitled to?”

2. Workman Pol was working in the year 1989 as Fire Operator in the pay scale of Rs. 560-20-660-EB-25-810-EB-30-1140 in Airport Authority of India, Mumbai. Vide Statement of Claim (Exhibit-6) workman/union (Airports Authority of India Mazdoor Sangh) pleaded that workman was sanctioned scooter loan advance Rs. 10,000 by the order dated 26-5-89 subject to terms and conditions of eligibility, however he could not purchase the scooter therefore the management issued him charge-sheet alleging that he committed misconduct under the service regulations dated 29-5-90. It is contended in the inquiry that the workman was puzzled and in order to create good will he accepted the charges levelled against him and he had requested the Airport Director to pardon him by the letter dated 11-9-90 on the basis of which the authority recommended the penalty of reduction to the lowest stage in a time scale of Fire Operator i.e. Rs. 560-20-660-EB-25-810-EB-30-1140 in addition to recovery of the scooter loan amount with penal rate of interest. It is averred that enquiry proceedings were not held in accordance with the prescribed procedure, enquiry officer did not prepare the report consequently inquiry being against the Principles of Natural Justice vitiates.

3. Management Airports Authority of India resisted the claim of workman union by filing Written Statement

(Exhibit-8) contending that the reference is not maintainable as cause was not espoused by the union and that the claim being verified by the workman himself. It is pleaded that workman was sanctioned advance for purchase of old motor cycle by the order dated 26-5-89 which he had drawn on 31-5-89, however since he did not comply with the terms and conditions which he did not comply he was given Memo dated 26-12-89 and thereafter reminders on 15-3-90, 18-4-90 and that eventually he was issued charge-sheet dated 29-5-90 alleging that workman did not purchase old motor cycle for which advance was sanctioned and that he furnished false certification that he was not having earlier motor cycle thereby he committed misconduct under the service regulations. It is averred that workman did not reply the said charge-sheet and therefore the enquiry was initiated against him in which he participated and that on 11th September, 1990, since he had requested the Airports Director for pardon enquiry could not be proceeded. It is pleaded on the basis of confession the Disciplinary Authority imposed punishment upon the workman the reduction to the lowest scale with recovery of advance amount with penal interest. It is pleaded that the workman/union for the first time in 1997 raised dispute on the imposed punishment before the A.L.C.(C) which is hopelessly time barred. It is further pleaded that the workman had no *locus standi* to file the claim duly verified under Section 2(k) of the Industrial Disputes Act. It is further averred that the reference is not maintainable in as much as in order to become an individual dispute as an industrial dispute it has to be established that it has the support of substantial section of the workman concerned in the establishment, and that it is not sufficient that the union has in its membership a substantial number of workman from the department in which the workman concerned was employed. It is contended that the substantial number of workman participated in or acted together to arrive at an understanding either by resolution or by any other means and collectively supported the dispute, is wanting consequently reference is not maintainable.

4. By the Rejoinder (Exhibit-10) workman/union reiterated the recitals in the Statement of Claim denying the averments in the Written Statement.

5. On perusal of the record it is seen my Learned Predecessor recasted the issues (Exhibit-11) on 4-5-99 and in the light of the preliminary issues Mr. R.S. Savant, Secretary of the Airports Authority of India Mazdoor Sangh filed affidavit in lieu of Examination-in-Chief (Exhibit-16) and closed evidence vide purshis (Exhibit-65). In rebuttal Assistant Manager (Personnel) Mr. Harbir Singh filed affidavit (Exhibit-67) and that management examined Assistant Commissioner of Labour/Deputy Registrar (Trade unions) Mumbai Mr. B.T. Patil vide (Exhibit-78) and management closed evidence vide purshis (Exhibit-79).

6. Union filed written submissions (Exhibit-80) and the management (Exhibit-82) along with copies of rulings (Exhibit-83). On hearing the Learned Representatives for the union and for the management and perusing the record and the written submissions I record my findings on the following preliminary issues for the reasons mentioned below:

Issues	Finding
1. Whether the domestic inquiry which was held against the workman was against the Principles of Natural Justice?	No.
2. Whether the reference made under Section 2(K) of the Industrial Disputes Act of 1947 is bad in law?	Yes.
3. Does the company prove that the reference is to be rejected as the claim suffers from laches?	Yes.

REASONS

7. At the threshold the Learned Representative for management Mr. Patil inviting attention to the written submissions and the decisions filed with 1st (Exhibit-82) urged with force that the claim being hopelessly time barred cannot be entertained. He submits that the Secretary of the Airports Authority of India Mazdoor Sangh for the first time espoused the cause of the year 1989-90 by the demand letter dtd. 26-3-97 with the A.L.C.(C) i.e. after about 7 years and that this inordinate delay has not been explained anywhere which is against the provisions of law and on this count, reference deserves to be disposed of. He submits that only because no time limit is provided does not mean that at any point of time power can be exercised by making a stale dispute relying on the decisions in *Nedungadi Bank Ltd. V/s. K.P. Madhavan Kutty*, 2000 I CLR 671(673) SC and *State of Punjab V/s. Kali Dass*, 1977 II CLR 151. On the other hand, the Learned Representative for the union Mr. Savant submitted that in case where delay is shown to exist the Tribunal/Court dealing with the case can appropriately mould the relief. He also submitted that the object of the statute is to ensure social justice to both employer and employees and to advance the progress of industry and that this piece of legislation is directing and regulating the service conditions of the workers. He has relief on *Ajaib Singh V/s. The Sirhind Co-operative Marketing-cum-Processing Service Society Ltd. & Anr.*, JT 1999(3) SC 38. In *Indian Iron & Steel Co. Ltd., V/s. Prahlad Singh*, 2001 Supreme Court Cases (L&S) 239. Their Lordships of Apex Court observed:

“Whether relief can be declined on the ground of delay and laches depends on the facts and circumstances of each case. In this case the claim was made almost after a period of 13 years without an reasonable or justifying ground and there was nothing on record to explain this delay as held by the Tribunal. When the respondent did not make claim for 13 years without any justificaion and on merits also he had no case, the Tribunal did not rightly grant him any relief.”

8. In the case in hand, scooter advance was sanctioned to the workman in the year 1989 and that management in the year 1990 had imposed punishment referred to above and that grievance on the said punishment for the first time was made before the A.L.C.(C) in the year 1997 i.e. after about seven years. Workman nor his representative whisper anywhere as to why such inordinate delay occurred. In *Indian Iron and Steel Company's case* Their Lordships pointed out where relief can be declined on the ground of delay and laches depends on the facts and circumstances of each case. In *Balgat Singh V/s. Punjab Roadways and Anr.*, six years delay was held belated by Their Lordships of Apex Court. Recently Their Lordships in *Krishni Utpadhan Mandi Samiti V/s. Arvind Chaubey and Anr.* 2003 SCC(L&S) 28 reduced the back wages from the total claim of the workman as delay of seven years was caused. Considering the facts of the present case in the light of the rulings since seven years inordinate delay had occurred and that has not been explained in any manner I find force in the submission of Mr. Patil that claim suffers from laches, consequently claim being hopelessly time barred cannot be entertained. Issue No. 3 is answered in affirmative.

9. Mr. Patil, the Learned Representative for the management contended that not only reference deserves to be rejected on the ground of belated claim but also being bad under Section 2(k) of the Industrial Disputes Act. He submits in order to become an individual dispute as industrial dispute it has to be established that the same had the support of substantial section of workmen concerned in the establishment and that it also be shown that they participated in or acted together and arrived at an understanding either by resolution or by other means and collectively supported the industrial dispute. He submits that no such exercise was made before espousing the cause of the workman, therefore the union had no *locus standi* consequently reference under Section 2(k) of the Act is bad in law. At the same time, the Learned Representative Mr. Savant submitted that special meeting of the members of the union was called upon unanimously resulting in authorising General Secretary of the union to raise dispute thereby there was compliance in rendering the reference

valid under Section 2(k) of the Act. He submits even unrecognised union has role in the Industrial Disputes, relying on Chairman, SBI and Anr. V/s. All Orissa State Bank Officers Association and Ors. (2002) 5 SCC 669 wherein Their Lordships observed :

“Unrecognised union is not a superfluous entity and that it is entitled to meet and discuss with the management/employer about the grievances of any individual member relating to his service conditions and to represent an individual member in domestic or departmental inquiry and proceedings before the Conciliation Officer or Labour Court or Industrial Tribunal and that management cannot out-rightly refuse to have such discussions with an unrecognised union.”

10. Assistant Commissioner of Labour/Deputy Registrar (Trade Unions) Mumbai Mr. Patil in his evidence stated that 133 workers were enrolled as the members of the union as on 31-12-97 and added that in the beginning of the year there cannot be 133 as shown in the annual returns of the union for the year 1997-98 (Exhibit-71) and that subscription separates from the date of enrollment and that number of members as on 1-1-97 was zero. According to Assistant Commissioner Mr. Patil admission fees as per the constitution Clause-3 (Exhibit-71) did not appear in the income side pg. 3 and that executive committee passed a resolution before taking up the cause of workers in conciliation for which minutes book as well as membership register had to be continued. It is to be noted that union did not show the admission fee on the income side of the statement of annual return though the same was leviable as per the constitution of the union as seen from the evidence of Mr. Patil. Further annual returns finds irregularities in the column of enrollment of membership. It is seen union showed 66 members admitted during the year 1997. Here point crops on why the amount towards entry fees Rs. 330/- was not shown on the income side when Rs. 5/- is entrance fee if so collected. The meeting of the general bodies normally held once in a year and that according to Mr. Savant the general body could also pass resolution for taking up the case of workers in conciliation, that no minute book of the concerned year showing the resolution was passed on the general body meeting and not in the executive committee meeting has been produced. The minutes book is for the year 1996 (Exhibit-64/B) when the union was not registered, it was registered on 21-1-97. Minutes book produced on record show at one place the members were present for the meeting held on 8-2-97 and in the second place mentions the special general body meeting was held on 8-2-97 wherein the resolution was said to have been passed. The irregularity, infirmity/ discrepancy in respect of the nature of duties certainly creates doubt as there are no minutes of the meetings thereafter for the entire year of 1997. It is significant to note that according to Assistant Commissioner Mr. Patil as per

Clause-3 of the constitution (Exhibit-71) is to be levied from the members however it does not find place in the income side of annual returns as regards membership register for the year 1997 not in continuity. It is not that the members were not enrolled throughout the year. The membership started with Serial No. 351 instead of Serial No. 1 and the union was registered on 21-1-97. On going through the membership register, minutes book in the light of the cross-examination of the union Secretary Mr. Savant and the discrepancies/irregularities pointed out by Assistant Commissioner, hardly can be said that substantial number of workers collectively supported either by resolution or otherwise the individual dispute to render the same valid under Section 2K of the Industrial Disputes Act. On this back ground, the decision cited by Mr. Savant is no avail to the union. Therefore, it is apparent that the reference made under Section 2(k) of the Act is bad in law hence Issue No.2 is answered accordingly.

11. So far domestic inquiry is concerned. Union Secretary Mr. Savant though made much capital as to how punishment imposed by the management upon the workman is illegal and unjustified remained silent as to how the inquiry was contrary to the principles of natural justice. Admittedly Mr. Savant was not present in the domestic inquiry in the year 1990. By one sentence that too on the information from the workman he states that the inquiry vitiates, however curious enough is that, workman Pol did not venture to state the grounds by entering in the witness box though he was only competent person to show as to how inquiry was not fair. Infact, Mr. Savant admits that workman Pol had given apology letter (Exhibit-49) in his handwriting on 11-9-90. Management's contention is that based on the apology letter which was unqualified and unconditional admission on the part of the workman there was no need to continue the inquiry which was sufficient for Disciplinary Authority to proceed further. It is well settled that no inquiry is required once the charges are admitted by the delinquent employee. In Central Bank of India Ltd. V/s. Karunamoy Banerjee 1967 11 LLJ p. 739 S.C. it is held :

“If the workman admits his guilt, to insist upon the management to let in evidence about the allegations, will in our opinion, only be an empty formality.”

Since workman admitted the guilt vide (Exhibit-49) there is no substance in the contention of Mr. Savant, that inquiry vitiates. It is therefore clear that the domestic inquiry was as per the principles of natural justice. Issue No. 1 is answered accordingly.

12. In view of the findings on Issue No. 2 & 3 reference being not maintainable deserves to be dismissed and hence the order : —

ORDER

Reference stands dismissed as not maintainable.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 18 जून, 2003

का. आ. 1997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान जिंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-43012/10/2000-आईआर (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 1997.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Hindustan Zinc Ltd., and their workman, which was received by the Central Government on 17-06-03.

[No. L-43012/10/2000-IR(M)]

B. M. DAVID, Under Secy.

अनुबंध

न्यायालय : न्यायाधीश, औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, उदयपुर

पीठासीन अधिकारी : श्री एल.डी. शर्मा,
आर. एच. जे. एस.

औद्योगिक विवाद संख्या 8/2000

करणसिंह पुत्र सज्जनसिंह जेतावत, : प्रार्थी
निवासो सैक्टर नं. 3,
हिरण मगरी,
उदयपुर

बनाम

प्रबंधक, : विपक्षी
हिन्दुस्तान जिंक लिमिटेड,
देवारी जिला, उदयपुर

उपस्थित :

श्री सुभाष श्रीमाली : प्रार्थी की ओर से
श्री बी. एल. गुप्ता : विपक्षी की ओर से

आदेश

दिनांक, 20 मई, 2003

भारत सरकार के श्रम विभाग द्वारा जरिये पत्र क्रमांक एल/43012/10/2000/आईआर(एम) दि. 31-5-2000 के द्वारा निम्न आशय का प्रसंग निर्णय हेतु इस न्यायालय को प्रेषित किया गया।

"Whether the action of the management of M/s. Hindustan Zinc Ltd., Udaipur, in terminating the services of Shri Karan Singh S/o Shri Sajjan Singh Jetaawat, Ex-Despatch w.e.f. 30-1-1999 is legal and justified? If not, to what relief the workman entitled?"

उक्त आशय का प्रसंग प्राप्त होने पर न्यायालय द्वारा दिनांक 2-11-2000 को दर्ज रजि. किया जाकर पक्षकारान को नोटिस जारी किये गये जिस पर प्रार्थी की ओर से क्लेम व विपक्ष की ओर से जवाब पेश किया गया।

संक्षेप में प्रार्थना पत्र के तथ्य इस प्रकार हैं कि प्रार्थी की नियुक्ति विपक्षी के नियोजन में नवम्बर 81 में डिस्पेंचर के पद पर हुई थी। प्रार्थी फुटबाल का राज्य स्तरीय खिलाड़ी था। विपक्षी द्वारा प्रार्थी को स्पोर्ट्स कोटे में खिलाड़ी के रूप में चयन किया गया। प्रार्थी का चयन होने के उपरान्त विपक्षी द्वारा स्पोर्ट्स समेन को दी जाने वाली सुविधाओं के बारे में कोई योजना नहीं बनाई गई इसलिये प्रार्थी को न केवल अपनी ड्यूटी समय में प्रातः 8 से 4.30 बजे तक ड्यूटी सम्पन्न करनी होती थी तथा अपने खेल के अभ्यास के लिये सुबह शाम उदयपुर एवं जिंक स्मेल्टर खेल के मैदान पर खेल का अभ्यास करना पड़ता था जबकि अन्य औद्योगिक संस्थानों में स्पोर्ट्स मेन को ड्यूटी समय में पूर्णकालीन ड्यूटी नहीं दी जाकर अपने खेल के स्तर को बनाये रखने के लिये रिलीज किया जाता है। इस प्रकार विपक्षी द्वारा प्रार्थी के साथ हमेशा भेदभाव किया गया। प्रार्थी द्वारा ड्यूटी के साथ-साथ अपने खेल का स्तर बनाये रखने के लिये अथक प्रयत्न किये जाने तथा समय-समय पर प्रतियोगिताओं के दौरान प्रार्थी के चोटग्रस्त होने के कारण प्रार्थी को 12 वर्ष के खेल केरियर के बाद प्रार्थी का स्वास्थ्य खराब रहने लग गया एवं ड्यूटी से अनुपस्थित रहने पर इसकी सूचना विपक्षी को दी जाती रही। विपक्षी द्वारा प्रार्थी की सेवाओं को नजरअंदाज करते हुए प्रार्थी को भी अन्य कर्मचारियों के समान अनुपस्थिति के कदाचरण के लिये आरोप पत्र जारी करना शुरू कर दिया। प्रार्थी द्वारा स्पष्टीकरण दिया गया लेकिन विपक्षी ने उस पर कोई ध्यान नहीं दिया। विपक्षी ने जानबूझ कर प्रार्थी को दि. 30-1-99 को सेवा से पृथक कर दिया गया। प्रार्थी पर विपक्षी द्वारा लम्बी अनुपस्थिति का आरोप लगा कर जांच अधिकारी ने पक्षपातपूर्ण एक तरफा कार्यवाही कर सेवा से पृथक कर दिया। जो विधि विरुद्ध व अवैध है। अतः पुनः सेवा में लिया जाकर समस्त सेवा लाभ प्रदान कराये जावे।

विपक्षी ने अपने जवाब में यह उल्लिखित किया है कि प्रार्थी की नियुक्ति स्पोर्ट्स कोटे के तहत नहीं की गई थी। प्रार्थी को आरम्भ में पत्र दि. 6-11-81 के तहत डिस्पेंचर श्रेणी 4 के पद पर तीन महीने के लिये अस्थाई नियुक्ति दी गई थी। प्रार्थी यदाकदा विपक्षी की टीम में खेल प्रतियोगिताओं में भाग लेता था। प्रार्थी ड्यूटी से अनुपस्थित रहने का आदी हो गया था। जो ईकाई के प्रमाणित स्थाई आदर्शों की धारा 19(4) 24 (एवं 30) के अन्तर्गत कदाचार है तथा इन्हीं कदाचारों के लिये प्रार्थी के विरुद्ध अनुशासनात्मक कार्यवाही की गई। प्रार्थी को आरोप पत्र जारी किये गये एवं आरोप सिद्ध होने के पश्चात दण्डित किया गया। प्रार्थी को आरोप पत्र प्राप्त करते क बाद भी अपना स्पष्टीकरण प्रस्तुत नहीं किया। सक्षम अधिकारी ने अपने आदेश दि. 28-3-98 द्वारा आरोपों की जांच के लिये जांच कार्यवाही का आदेश दिया। रजिस्टर्ड चिट्ठी भेजी गई, समाचार पत्रों में नोटिस जारी कर प्रार्थी को उपस्थित होने को कहा गया। प्रार्थी का स्पष्टीकरण संतोषजनक नहीं पाये जाने पर सक्षम अधिकारी ने अपने आदेश क्रमांक जि. स्मे./कार्मिक/99/2675 दि. 15-1-99 के तहत कम्पनी की सेवा से मुक्त का दण्ड दिया। अतः क्लेम पत्र निरस्त किया जावे।

मैंने दोनों पक्षों को सुना व पत्रावली का अवलोकन किया। प्राथी के विरुद्ध आरोप पत्र प्रदर्श 9 है जिसके अनुसार उस पर आरोप है कि वह वर्ष 97 के दौरान 231 दिन तक बिना अवकाश स्वीकृत कराए सेवा से अनुपस्थित रहा जो कि विपक्षी के स्थाई आदेशों के अन्तर्गत कदाचार की परिभाषा में आता है। प्राथी ने विभागीय जांच में भाग नहीं लिया व उसके विरुद्ध दिनांक 15-1-99 को सेवा मुक्ति का आदेश पारित कर दिया गया। दौराने बहस प्राथी ने विभागीय जांच की कार्यवाही की वैधता व स्वतंत्रता को कोई चुनौती नहीं दी है। उसने केवल दण्ड को चुनौती दी है जो उसके अनुसार मामले के तथ्य व परिस्थितियों को देखते हुए अत्यधिक कठोर है। प्राथी का कथन है कि विपक्षी द्वारा स्पोर्ट्स कोर्ट में खिलाड़ी के रूप में उसका चयन नवम्बर 81 में किया गया था। विपक्षी ने खिलाड़ियों को दी जाने वाली सुविधाओं के बारे में कोई योजना नहीं बनाई थी व कहा कि अपनी ड्यूटी प्रातः 8 से 4.30 बजे तक सम्पन्न करता था। इससे पूर्व प्रातःकाल व शाम को उदयपुर व जिक स्मेल्टर खेल के मैदान में खेल का अभ्यास करना पड़ता था जबकि अन्य औद्योगिक संस्थानों में खिलाड़ियों को ड्यूटी समय में पूर्ण कालिन ड्यूटी नहीं दी जाकर अपने खेल के स्तर को बनाये रखने के लिए रिलीज किया जाता था। प्राथी के अनुसार उसने अपने खेल स्तर को बनाये रखते के लिए अधिक मेहनत की तथा जिला स्तरीय फुटबाल प्रतियोगिता, राज्य स्तरीय फुटबाल प्रतियोगिता, अखिल भारतीय मोहन कुमार मंगलम फुटबाल प्रतियोगिता आदि में प्राथी ने विपक्षी टीम का प्रतिनिधित्व किया व कई प्रतियोगिताओं में विपक्षी को विजय दिलाई जिससे विपक्षी की प्रतिष्ठा में काफी वृद्धि हुई। खेल स्तर को बनाये रखने के प्रयास व प्रतियोगिताओं के दौरान प्राथी कई बार चोटग्रस्त हुआ तथा इस कारण से 12 वर्ष के खेल कैरियर के बाद प्राथी का स्वास्थ्य खराब रहने लगा तथा मौसम परिवर्तन के साथ प्राथी के पैरों व शरीर में दर्द उठने लगा। इस कारण प्राथी कभी कभी ड्यूटी से अनुपस्थित रहा। विपक्षी ने प्राथी के उक्त कथनों का खण्डन नहीं किया है। प्राथी को ड्यूटी के साथ बाकी समय में खेल का प्रयास करना पड़ता था और प्राथी ने फुटबाल प्रतियोगिता में विपक्षी को कई बार विजय दिलाई जिससे उसकी प्रतिष्ठा बढ़ी। यह भी समझ में आता है कि काम के साथ खेल अभ्यास व प्रतियोगिता में चोटें आने के कारण प्राथी की क्षमता घटी व 12 वर्ष के खेल कैरियर के पश्चात् उसके शरीर में दर्द रहना शुरू हो गया।

आर एल आर 2000 (1)631 बाबूलाल बनाम यूनियन ऑफ इण्डिया व अन्य में जहां श्रमिक सेवा से अनुपस्थित रहा व विभागीय जांच में उस आधार पर उसको सेवा से अनिवार्य सेवा निवृत्ति दे दी गई है। माननीय राज. उच्च न्यायालय ने यह माना कि अनुपस्थिति के काल को अवैतनिक काल मान लिया गया हो तो यह नहीं माना जा सकता कि प्राथी जानबूझ कर सेवा से अनुपस्थित रहा। इसी प्रकार आर एल आर 2002(1)608 जमीला व अन्य बनाम राज. राज्य में जहां श्रमिक पुलिस में कान्स्टेबल था और लगभग 8 महीने तक बिना अवकाश स्वीकृत कराए सेवा से अनुपस्थित रहा। उसका कथन था कि वह दिल के रोग से पीड़ित था तथा उक्त समय का अवकाश अवैतनिक अवकाश मान कर सेवा नियमित की गई थी तो यह माना कि सेवा से पृथक किये जाने का दण्ड अत्यधिक कठोर है और दण्ड को बदल कर तीन वेतन वृद्धियां रोके जाने का दण्ड दिया गया था।

एफ एल आर 2000(86)612 मैनेजमेंट लोकशिकशाहना ट्रस्ट नं. 2 बेंगलूर बनाम प्रसाईडिंग आफिसर लेबर कोर्ट ने जहां किसी श्रमिक को अवैध हड़ताल में भाग लेने के कारण सेवा से पृथक कर दिया व लेबर कोर्ट ने यह माना कि सेवा पृथक्कीकरण का आदेश अत्यधिक कठोर है और पृथक्कीकरण के बजाय दो वेतन वृद्धियां रोके जाने का आदेश दिया गया तो माननीय सर्वोच्च न्यायालय ने यह आदेश दिया कि प्राथी केवल 60 प्रतिशत पूर्व वेतन प्राप्त करने का अधिकारी है। इसी प्रकार 1989 एल आई सी 1043 सकूटर इण्डिया लि. लखनऊ बनाम लेबर कोर्ट में माननीय सर्वोच्च न्यायालय ने यह निर्णित किया कि जहां थ्रैलू जांच को सही व वैध माना गया हो तब भी श्रम न्यायालय को यह अधिकार है कि वह दण्ड के मामले में दखल दे सकता है।

उक्त प्रकरण में प्राथी श्रमिक के विरुद्ध गम्भीर दुराचरण के आरोप थे और उस आधार पर उसे सेवा से मुक्त किया गया तो श्रम न्यायालय के उस फैसले को उचित व वैध माना जिसके द्वारा श्रम न्यायालय ने प्राथी की 75 प्रतिशत पुराने वेतन के साथ बहाली का आदेश दिया और यह व्यक्त किया कि श्रमिक को अपने आपको सुधारने व एक अनुशासित व वफादार कर्मचारी साबित करने का मौका मिले। इसी प्रकार 1989 एल आई सी 491 देहली क्लोथ एण्ड जनरल मिल्स कोप. लि. बनाम श्रीराम फर्टिलाइजर कर्मचारी यूनियन छावनी कोटा में माननीय राज. उच्च न्यायालय की खण्ड पीठ ने यह व्यक्त किया कि जहां श्रमिक के खिलाफ दूसरे सश्रमिक को धमकी देने का आरोप था तब भी उसकी सेवा मुक्ति का आदेश निरस्त कर दिया व उसकी सेवा बहाल कर दी गई।

मेरे विचार से प्राथी के उपरोक्त सहयोग को देखते हुए यही कहा जा सकता है कि सेवा मुक्ति का आदेश अत्यधिक कठोर है। प्राथी को एक अवसर दिया जाना न्यायोचित है ताकि वह प्रमाणित कर सके कि विपक्षी का वह एक वफादार व अनुशासित कर्मचारी है। अतः प्राथी को दिया गया सेवा मुक्ति का दण्ड निरस्त किया जाता है।

अब यह देखना है कि प्राथी को क्या दण्ड दिया जाए। मेरे विचार से प्रकरण के तथ्यों व परिस्थितियों को देखते हुए और यह देखते हुए कि प्राथी ने विपक्षी को पूर्व में करीब 15 वर्ष की सेवाएं दी है। उस का 50 प्रतिशत पूर्व वेतन व भत्ता रोक लिया जाना पर्याप्त दण्ड होगा।

अतः प्रसंग का उत्तर इस प्रकार दिया जाता है कि प्राथी का दिनांक 30-1-99 से सेवा मुक्ति किया जाना अवैध व अनुचित है लेकिन सेवा मुक्ति के दण्ड के स्थान पर उसे 50 प्रतिशत वेतन व भत्ते का दण्ड दिया जाना पर्याप्त है। विपक्षी को आदेश दिया जाता है कि वह प्राथी को इस अवार्ड के प्रकाशन के एक माह की अवधि में सेवा में बहाल करे तथा उसे सेवा मुक्ति की तारीख 30-1-99 से बहाली तक पूर्व वेतन व भत्तों का 50 प्रतिशत अदा करे। प्राथी अन्य सेवा लाभ प्राप्त करने का अधिकारी होगा। पंचाट प्रकाशनार्थ भारत सरकार को भेजा जाए।

एल. डी. शर्मा, न्यायाधीश

नई दिल्ली, 18 जून, 2003

का. आ. 1998.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान जिक

लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण श्रम न्यायालय उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-43012/11/2000-आईआर (एम.)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 18th June, 2003

S.O.1998.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Zinc Ltd., and their workman, which was received by the Central Government on 17-06-2003.

[No. L-43012/11/2000-IR(M)]

B. M. DAVID, Under Secy.

अनुबंध

न्यायालय : न्यायाधीश, औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, उदयपुर

पीठासीन अधिकारी

: श्री एल.डी. शर्मा,
आर. एच. जे. एस.

औद्योगिक विवाद संख्या 2/2000

दिलीपसिंह पुत्र जोरावरसिंह शेखावत (राजपूत) वरिष्ठ सहायक, निवासी 165, टैगोर नगर सेक्टर नं. 4, हिरणमगरी, उदयपुर —प्राथी

बनाम

प्रबंधक, हिन्दुस्तान, जिंक लि. जिंक स्मेल्टर देबारी, जिला उदयपुर
—विपक्षी

उपस्थित :—

श्री सुपभा श्रीमाली : प्राथी की ओर से

श्री बी एल गुप्ता : विपक्षी की ओर से

दिनांक 20-5-2003

आदेश

भारत सरकार के श्रम विभाग द्वारा जरिये पत्र क्रमांक एल-43012/11/2000/आईआर (एम) दिनांक 18-8-2000 के द्वारा निम्न आशय का प्रसंग निर्णय हेतु इस न्यायालय को प्रेषित किया गया।

“Whether the action of the management of Hindustan Zinc Ltd, Zinc Smelter, Debari Distt. Udaipur imposing the penalty of removal from service on Shri Dilip Singh S/o Shri Jorawar Singh Ex. Senior Asstt. w.e.f. 29-1-1999 is legal and justified? If not to what relief the workman concerned is entitled?”

उक्त आशय का प्रसंग प्राप्त होने पर न्यायालय द्वारा दिनांक 9-10-2000 को दर्ज रजि. किया जाकर पक्षकारान को नोटिस देकर किये गये जिस पर प्राथी की ओर से क्लेम व विपक्षी की ओर से जवाब पेश किया गया।

संक्षेप में प्रार्थना पत्र के तथ्य इस प्रकार हैं कि प्राथी फुटबाल का राज्य स्तरीय खिलाड़ी था विपक्षी द्वारा प्राथी का स्पोर्ट्स कोटे में खिलाड़ी के रूप में चयन किया गया एवं वर्ष सितम्बर 85 में प्राथी की नियुक्ति क्लर्क श्रेणी (फोर्थ ए) के पद पर की गई। प्राथी को न केवल अपनी ड्यूटी समय में प्रातः 8 से 4.30 बजे तक ड्यूटी सम्पन्न करनी होती थी बल्कि अपने खेल के अभ्यास के लिये सुबह शाम उदयपुर एवं जिंक स्मेल्टर खेल के मैदान पर खेल का अभ्यास करना पड़ता था जबकि अन्य औद्योगिक संस्थानों में स्पोर्ट्समेन को ड्यूटी समय में पूर्णकालिन ड्यूटी नहीं दी जाकर अपने खेल के स्तर को बनाये रखने के लिए रिलीज किया जाता था। इस प्रकार विपक्षी द्वारा प्राथी के साथ हमेशा भेदभाव किया गया। प्राथी के 10 वर्ष के खेल कैरियर के बाद स्वास्थ्य खराब रहने लग गया जिस कारण से प्राथी को ड्यूटी से अनुपस्थित रहना पड़ता था। प्राथी को सर्वप्रथम वर्ष 93 में अनाधिकृत रूप से अनुपस्थित के कदाचार के लिये मिथ्या आरोप पत्र जारी किया गया। प्राथी स्वयं समय-समय पर बीमार रहा जिसका चिकित्सा प्रमाण-पत्र विपक्षी को प्रस्तुत किये गये लेकिन विपक्षी ने नजरअंदाज कर मनमर्जी से जांच कार्यवाही की जो सामाजिक व प्राकृतिक न्याय के सिद्धांत के विरुद्ध है। अतः पुनः सेवा में लिया जाकर समस्त सेवा लाभ प्रदान कराया जाये।

विपक्षी ने अपने जवाब में यह उल्लिखित किया है कि प्राथी को प्रारम्भ में 1100 रु. प्रतिमाह पर एक वर्ष के लिये नियुक्त किया गया था। इसके पश्चात् कार्यालय आदेश दिनांक 13/16-7-88 के तहत प्राथी को नियमित किया गया। प्राथी यदाकदा विपक्षी की टीम रु. खेल प्रतियोगिताओं में भाग लेता था। प्राथी ड्यूटी से अनुपस्थित रहने का आदी हो गया था। प्राथी को अनाधिकृत अनुपस्थित रहने के कारण कम्पनी के प्रमाणित स्थाई आदेशों की धारा 19(4)(24) एवं (30) के अन्तर्गत समय-समय पर आरोप पत्र जारी किये गये। जांच कार्यवाही के पश्चात् सक्षम अधिकारी द्वारा दण्ड दिया गया। प्राथी को आरोप पत्र रजिस्टर्ड डाक से भेजे गये। आरोप-पत्र प्राप्त करने के बाद भी अपना स्पष्टीकरण प्रस्तुत नहीं किया। सक्षम अधिकारी ने जांच कार्यवाही का आदेश दिया। प्राथी को जांच कार्यवाही में उपस्थित होने के लिये जांच अधिकारी द्वारा प्राथी के पते पर पत्र रजिस्टर्ड डाक से भेजा गया जो डाक विभाग द्वारा इस टिप्पणी के साथ पुनः इस कार्यालय को प्राप्त हुआ कि बार बार जाने पर भी पाने वाला नहीं मिलता अतः वापस। इसके पश्चात् समाचार पत्रों में नोटिस जारी कर प्राथी को जांच कार्यवाही में उपस्थित होने के लिये कहा गया। प्राथी ने अपना स्पष्टीकरण प्रस्तुत किया लेकिन संतोषप्रद नहीं पाये जाने से दिनांक 30-1-99 के तहत कम्पनी की सेवा से मुक्त का दण्ड दिया। अतः क्लेम पत्र निरस्त किया जावे।

मैंने दोनों पक्षों को सुना व पत्रावली का अवलोकन किया। प्राथी के विरुद्ध प्रदर्श 12 के द्वारा यह आरोप है कि वर्ष 97 में वह 248 दिनों तक बिना अवकाश स्वीकृत कराये सेवा से अनुपस्थित रहा जो कि स्थाई आदेशों के अन्तर्गत कदाचार की तारीफ में आता है। जांच अधिकारी ने अपनी जांच के द्वारा प्राथी की अनुपस्थिति सिद्ध होना मान लिया व उस आधार पर उसे आदेश प्रदर्श 25 दिनांक 29-1-99 के द्वारा सेवा मुक्त कर दिया।

प्रार्थी ने दौरान बहस विभागीय जांच की वैधता व स्वतंत्रता को कोई चुनौती नहीं दी है। उसके अनुसार उसके द्वारा दी गई सेवा को देखते हुए सेवा मुक्ति का दण्ड अत्यधिक कठोर है। प्रार्थी का कथन है कि उसे सन 85 में क्लर्क श्रेणी फोरथ ए के पद पर नियुक्ति दी गई थी। उसे इस पद पर नियुक्ति स्पॉर्ट से कोटे के अन्तर्गत दी गई थी। विपक्षी ने खिलाड़ियों को दी जाने वाली सुविधाओं के बारे में कोई योजना नहीं बनाई थी व कहा कि अपनी ड्यूटी प्रातः 8 से 4.30 बजे तक सम्पन्न करता था। इससे पूर्व प्रातःकाल व शाम को उदयपुर एवं जिक स्मेल्टर खेल के मैदान में खेल का अभ्यास करना पड़ता था जबकि अन्य औद्योगिक संस्थानों में खिलाड़ियों को ड्यूटी समय में पूर्णकालीन ड्यूटी नहीं दी जाकर अपने खेल के स्तर को बनाये रखने के लिये रिलीज किया जाता था। प्रार्थी के अनुसार उसने अपने खेल स्तर को बनाये रखने के लिये अधिक मेहनत की तथा जिला स्तरीय फुटबाल प्रतियोगिता, राज्य स्तरीय फुटबाल प्रतियोगिता अखिल भारतीय मोहन कुमार मंगलम फुटबाल प्रतियोगिता आदि में प्रार्थी ने विपक्षी टीम का प्रतिनिधित्व किया व कई प्रतियोगिताओं में विपक्षी को विजय दिलाई जिससे विपक्षी की प्रतिष्ठा में काफी वृद्धि हुई। खेल स्तर को बनाये रखने के प्रयास व प्रतियोगिताओं के दौरान प्रार्थी कई बार चोटग्रस्त हुआ तथा इस कारण से 10 वर्ष के खेल कैरियर के बाद प्रार्थी का स्वास्थ्य खराब रहने लगा व मौसम परिवर्तन के साथ प्रार्थी के पैरों व शरीर में दर्द उठने लगा। इस कारण प्रार्थी कभी-कभी ड्यूटी से अनुपस्थित रहा। विपक्षी ने प्रार्थी के उक्त कथनों का खण्डन नहीं किया है। प्रार्थी को ड्यूटी के साथ साथ बाकी समय में खेल का प्रयास करना पड़ता था और प्रार्थी ने फुटबाल प्रतियोगिता में विपक्षी को कई बार विजय दिलाई। जिससे उसकी प्रतिष्ठा बढ़ी। यह भी समझ में आता है कि काम के साथ खेल अभ्यास व प्रतियोगिता में चोटें आने के कारण प्रार्थी की क्षमता घटी व 10 वर्ष के खेल कैरियर के पश्चात् उसके शरीर में दर्द रहना शुरू हो गया।

आर एल आर 2000(1) 631 बाबूलाल बनाम यूनियन आफ इण्डिया व अन्य में जहां श्रमिक सेवा से अनुपस्थित रहा व विभागीय जांच में उस आधार पर उसको सेवा से अनिवार्य सेवानिवृत्ति दे दी गई। माननीय राज. उच्च न्यायालय ने यह माना कि अनुपस्थिति के काल को अवैतनिक काल मान लिया गया हो तो यह नहीं माना जा सकता कि प्रार्थी जानबूझ कर सेवा से अनुपस्थित रहा। इसी प्रकार आर एल आर 2000(1) 608 जमीला व अन्य बनाम राज. राज्य में जहां श्रमिक पुलिस में कान्सटेबल था और लगभग 8 महीने तक बिना अवकाश स्वीकृत करायें सेवा से अनुपस्थित रहा। उसका कथन था कि वह दिल के रोग से पीड़ित था तथा उक्त समय का अवकाश अवैतनिक अवकाश मान कर सेवा नियमित की गई थी तो यह माना कि सेवा से पृथक् किये जाने का दण्ड अत्यधिक कठोर है और दण्ड को बदल कर तीन वेतन वृद्धियां रोके जाने का दण्ड दिया गया था। एफ एल आर 2000(63) 612 मैनेजमेंट लोकशिक्षाहना ट्रस्ट नं. 2 बेंगलूर बनाम प्रजाईडिंग आफिसर लेबर कोर्ट ने जहां किसी श्रमिक को अवैध हड़ताल में भाग लेने के कारण सेवा से पृथक् कर दिया व लेबर कोर्ट ने यह माना कि सेवा पृथक्कीकरण का आदेश अत्यधिक कठोर है और पृथक्कीकरण के बजाय दो वेतन वृद्धियां रोके जाने का आदेश दिया गया तो माननीय सर्वोच्च न्यायालय ने यह आदेश दिया कि प्रार्थी केवल 60 प्रतिशत पूर्व

वेतन प्राप्त करने का अधिकारी है। इसी प्रकार 1989 एल आई सी 1043 स्कूटर इण्डिया लि. लखनऊ बनाम लेबर कोर्ट में माननीय सर्वोच्च न्यायालय ने यह निर्णीत किया कि जहां घरेलू जांच को सही व वैध माना गया हो तब भी श्रम न्यायालय को यह अधिकार है कि वह दण्ड के मामले में दखल दे सकता है।

उक्त प्रकरण में प्रार्थी श्रमिक के विरुद्ध गम्भीर दुराचरण के आरोप थे और उस आधार पर उसे सेवा से मुक्त किया गया तो श्रम न्यायालय के इस फैसले को उचित व वैध माना जिसके द्वारा श्रम न्यायालय ने प्रार्थी को 75 प्रतिशत पुराने वेतन के साथ बहाली का आदेश दिया और यह व्यक्त किया कि श्रमिक को अपने आपको सुधारने व एक अनुशासित व बफादार कर्मचारी साबित करने का मौका मिले। इसी प्रकार 1989 एल आई सी 491 देहली क्लोथ एण्ड जनरल मिल्स कोप. लि. बनाम श्रीराम फर्टिलाइजर कर्मचारी यूनियन छावनी कोटा में माननीय राज. उच्च न्यायालय की खण्ड पीठ ने यह व्यक्त किया कि जहां श्रमिक के खिलाफ दूसरे सश्रमिक को धमकी देने का आरोप था तब भी उसकी सेवा मुक्ति का आदेश निरस्त कर दिया व उसकी सेवा बहाल कर दी गई।

मेरे विचार से प्रार्थी के उपरोक्त सहयोग को देखते हुए यही कहा जा सकता है कि सेवा मुक्ति का आदेश अत्यधिक कठोर है। प्रार्थी को एक अवसर दिया जाना न्यायोचित है ताकि वह यह प्रमाणित कर सके कि विपक्षी का वह एक बफादार व अनुशासित कर्मचारी है। अतः प्रार्थी को दिया गया सेवा मुक्ति का दण्ड निरस्त किया जाता है।

अब यह देखना है कि प्रार्थी को क्या दण्ड दिया जाए ? मेरे विचार से प्रकरण के तथ्यों व परिस्थितियों को देखते हुए और यह देखते हुए कि प्रार्थी ने विपक्षी को पूर्व में करीब 15 वर्ष की सेवाएं दी हैं। उसका 50 प्रतिशत पूर्व वेतन व भत्ता रोक लिया जाना पर्याप्त दण्ड होगा।

अतः प्रसंग का उत्तर इस प्रकार दिया जाता है कि प्रार्थी का दिनांक 29-1-99 से सेवा मुक्त किया जाना अवैध व अनुचित है लेकिन सेवा मुक्ति के दण्ड के स्थान पर उसे 50 प्रतिशत वेतन व भत्ते का दण्ड दिया जाना पर्याप्त है। विपक्षी को आदेश दिया जाता है कि वह प्रार्थी को इस अवार्ड के प्रकाशन के एक माह की अवधि में सेवा में बहाल करे तथा उसे सेवा मुक्ति की तारीख 29-1-99 से बहाली तक पूर्व वेतन व भत्तों का 50 प्रतिशत अदा करे। प्रार्थी अन्य सेवा लाभ प्रदत्त करने का अधिकारी होगा। पंचाट प्रकाशनार्थ भारत सरकार को भेजा जाय।

एल.डी. शर्मा, न्यायाधीश

नई दिल्ली, 18 जून, 2003

का. आ. 1999.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर. के. मार्बल्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2003 को प्राप्त हुआ था।

[सं. एल-29012/94/2001-आई आर (एम.)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 18th June, 2003

S.O. 1999.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. R.K. Marbles and their workman, which was received by the Central Government on 17-06-03.

[No. L-29012/94/2001-IR(M)]

B. M. DAVID, Under Secy.

अनुबंध

मु. 000 5/2002, आई.टी.आर. केन्द्र सरकार

अनवान : हिरालाल बनाम मैनि. आर. के. मार्बल

अधि. संख्या-एल-29012/94/01-आई.आर. (एम)

08-11-2001

निर्णय

दिनांक 1 मई, 2003

उभयपक्ष के प्रतिनिधि उप./प्राथी व उसके प्रतिनिधि ने एक प्रार्थना पत्र पेश किया कि प्राथी का विपक्षी संस्थान से सेवा में से पृथक संबंधित विवाद का समझौता हो गया है। प्राथी अब विपक्षी संस्थान मैसर्स आर. के. मार्बल वि. बीणमंद के विरुद्ध कोई कार्यवाही नहीं चाहता है, और न ही कोई राहत चाहता है। प्रकरण में "नो डिस्प्यूट अवार्ड" जारी किया जावे। हस्त प्रवक्ता प्राथी कोई विवाद नहीं "नो डिस्प्यूट" अवार्ड जारी किया जाता है। सूचना भारत सरकार को भेजी जावे। पत्रावली पैलल शुमार होकर दाखिल दफ्तर हो।

वादी

ह०/-

अपठनीय

नई दिल्ली, 18 जून, 2003

का. आ. 2000.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिविल एविएशन ट्रेनिंग कॉलेज के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 22/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-06-2003 को प्राप्त हुआ था।

[सं. एल-11012/20/2001-आई आर (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 18th June, 2003

S.O. 2000.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Civil Aviation Training College and their workman, which was received by the Central Government on 18-06-03.

[No. L-11012/20/2001-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SARVODAYA
NAGAR, KANPUR, U.P.

Industrial Dispute No. 22 of 2001

In the matter of dispute—

BETWEEN

Sri J. Lal,
S/o. Masuriya Din
Village Shampur Post Gharwa
Distt. Kaushambi,
Allahabad.

AND

The Principal
Civil Aviation Training College,
Bamrauli Allahabad.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its notification No. L-11012/20/01/IR(M) dated 31-10-2001 has referred the following dispute to this tribunal for adjudication—

Whether the action of the management of Civil Aviation Training College, Bamrauli, Allahabad in terminating the services of Sri J. Lal son of Masuriya Din w.e.f. 1-9-99 is justified? If not to what relief the workman is entitled?

2. In the instant case on receipt of reference order registered notice was sent on 7-1-02 to the workman to file his statement of claim fixing a date as 11-2-2002. On 11-2-2002 one Sri G. K. Sinha appeared in the case on behalf of the workman and filed his authority in the case alongwith application for adjournment. The application was allowed and the case was fixed for 22-3-2002. The authorised representative again appeared on behalf of the workman but instead of filing of statement of claim sought further adjournment by moving application which was allowed and the case was fixed for 2-5-2002 for the purpose of filing of statement of claim. Thereafter, repeated opportunities were given to the workman by the tribunal to file statement of claim but the workman failed in filing his statement of claim in the case. Finally when the case was taken up for hearing on 6-6-03, the authorised representative for the workman appeared on behalf of the workman but did not file statement of claim nor moved any application for time to file the same.

3. Thus from the conduct and behaviour of the workman it is quite evident that he is not interested in prosecuting his case. Moreover, the present case cannot be allowed to be pending for filing of statement of claim by the workman especially when after availing sufficient and repeated opportunities with effect from 11-2-02 till 6-6-03 he failed in complying with the directions of the tribunal.

4. In the circumstances of the case, the tribunal is left with no other option but to hold that the workman is not interested in contesting the present dispute. Accordingly it is held that the workman is not entitled for any relief in pursuance of the present reference made to this tribunal for want of pleading and proof.

5. Reference is answered accordingly against the workman.

SURESH CHANDRA, Presiding Officer
नई दिल्ली, 19 जून, 2003

का. आ. 2001.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, विशाखापत्तनम् के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-14012/42/2001-आई आर (डी. यू.)]
बी. एम. डेविड, अवसर सचिव

New Delhi, the 19th June, 2003

S.O. 2001.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.S.T.L. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-14012/42/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, VISAKHAPATNAM

PRESENT:

SRI Y. DHILLESWARA RAO, B.A., LL.B.,
CHAIRMAN & PRESIDING OFFICER

DATED: 17th day of May, 2003

COMMON AWARD IN I.T.I.D.(C) 84/2001 AND
I.T.I.D. (C) 28/2002

BETWEEN

Potti Samuel
S/o. Daniel
R/o. D. No.58-26-35, Gandhi Nagar,
Butchiraju Palem,
Visakhapatnam -530027

..Petitioner/Workman
in I.T.I.D. (C) 84/2001
& I.T.I.D. (C) 28/2002

AND

The Director,
N.S.T.L., NAD Kotha Road,
Visakhapatnam—30 009.

..Respondent/
Management in I.T.I.D.
(C) 84/2001 & I.T.I.D.
(C) 28/2002

I.T.I.D. (C) 84/2001 is filed by the workman Under Section 2A(2) of I.D. Act and I.T.I.D. (C) 28/2002 is a reference made by the Government of India Under Section 10(1)(d) of Industrial Disputes Act, vide reference No. L-14012/42/2001-IR(DU) Dated 01-01-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D.V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following:

AWARD

1. I.T.I.D. (C) 84/2001: Application filed by the workman Under Section 2A(2) of Industrial Disputes Act was taken on file as I.T.I.D. (C) 84/2001. In brief, the workman's case is that he was employed by the respondent/management during April, 1997 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs. 1,560/- per month. Juniors to the workmen are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central) but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions, Central Government entrusts certain special projects which are time bound and highly technical in nature. That there are no regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That the work done by him is perennial in nature.

4. I.T.I.D. (C) 28/2002: This is a reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development Organisation, Visakhapatnam in terminating the services

of Sri P. Samuel Casual Labour with effect from 31-1-2001 is legal and/or justified? If not, to what relief the workman is entitled?"

5. The reference was taken on file as I.T.I.D. (C) 28/2002. The workman filed his claim statement similar to the claim made in the petition filed Under Sec. 2A(2) of I.D. Act in I.T.I.D. (C) 84/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time of termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.I.D. (C) 84/2001.

7. Vide orders dated 30-10-2002, passed in I.T.I.D. (C) 84/2001, I.T.I.D. (C) 28/2002 is clubbed with I.T.I.D. (C) 84/2001 for common disposal. For the workman, WW1 and WW2 are examined and Exs. W1 and W2 are marked. For the management, MW1 is examined and Exs. M1 to M3 are marked.

8. Heard both sides. The points that arise for a consideration are:

- (1) Whether the petitioner is a workman?
- (2) Whether the retrenchment alleged is illegal?
- (3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for?

9. Point No. 1 : Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from April, 1997 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked in all 98 days during the entire period from 1998 till 2001 and that he was appointed on daily wage basis as daily wage worker whenever there is work. WW2 is an employee (Stencil Operator) in the management concern. He is father of the petitioner in ITID No. 80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

10. The management examined Joint Director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000(6) ALT at page 689 between Tanuk Municipality and S. Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not

agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitle for reinstatement. His lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of "workman" Under Section 2(s) of I.D. Act and the Provisions of I.D. Act are applicable."

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002 (1) ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen are not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997—Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

12. The term 'workman' defined U/Sec. 2(s) of I.D. Act includes any person employed in any industry, to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of Wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

13. Point No. 2 : The term 'retrenchment' is defined Under Sec. 2(oo) of Industrial Disputes Act. It runs, "'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided Under Sec. 25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The Learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to prove the same which he failed to discharge. She relied on

a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Considering Sec. 20(10)(b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization."

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The Learned Counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the period from the year 1998 to 2001 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. "Disbursement shall be made to workman by cashier after the sanction. No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner working in the organization. Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records, I do not agree with the learned counsel for workman, that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fair admitted maintenance of attendance register even to casual labour who were

engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17. MW1 in the very chief examination stated WW1 worked from 1998 till 2001. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1998 to 2001 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2 that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18. The Learned Government Pleader argued reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1. that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R. V. Apparao, G. Ramu and S. Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

SRI Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR WORKMAN :

WW1: P. Samuel

WW2: J. Appa Rao

FOR MANAGEMENT:

MW1: Manjul Nath Pandey

DOCUMENTS MARKED

For Workman :

Ex. W1: 27-6-2001: Minutes of conciliation proceedings held on 26-6-2001 before Asst. Labour Commissioner (Central), Visakhapatnam

Ex. W2: Requisition for casual helper.

For Management:

Ex. M1: 25-02-2003: Letter of authorization on behalf of management.

Ex. M2: Circular No. 169/94 dated 28-2-94 issued by Government of India/Ministry of Defence/New Delhi regarding authorization to officers to sign on all pleading and other documents.

Ex. M3: 21-12-99: Common order dated 21-12-99 in WP No. 15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 19 जून, 2003

का. आ. 2002.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय विशाखापत्तनम् के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-14012/46/2001-आई आर(डी यू)]
बी एम डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2002.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.S.T.L. and their workman, which was received by the Central Government on 19-06-03.

[No. L-14012/46/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT VISAKHAPATNAM

PRESENT: SRI Y. DHILLESWARA RAO, B. A. LL.B,
CHAIRMAN & PRESIDING OFFICER

DATED: 17th DAY OF MAY, 2003

COMMON AWARD IN I.T.I.D.(C)85/2001 AND
I.T.I.D.(C) 50/2002

BETWEEN:

Egela Satyanarayana

S/o Narasinga Rao

R/o D.No.SD/D, 181/I,

Chimalapilli Village

Porlupalem PO,

Pendurthi Mandalam

Visakhapatnam - 530 029 ..Petitioner/Workman in
ITIDC85/2001 & ITIDC50/2002

AND

The Director

N.S.T.L., NAD Kotha Road,

Visakhapatnam - 530 009 ..Respondent/Management in
ITIDC85/2001 & ITIDC50/2002

ITID(C)85/2001 is filed by the workman under Sec.2A(2) of I.D. Act and ITID (C)50/2002 is a reference made by the Government of India Under Sec.10(1)(d) of Industrial Disputes Act, vide reference No.L-14012/46/2001-IR(DU) Dated 05-7-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D.V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following:

AWARD

1. ITID(C)85/2001: Application filed by the workman Under Sec.2A(2) of Industrial Disputes Act was taken on file as ITIDC85/2001. In brief, the workman's case is that he was employed by the respondent/management during February, 1996 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs. 1,560/- per month. Juniors to the workmen are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central) but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions. Central Government entrusts certain special projects which are time bound and highly technical in nature. That there are no-regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That he worked for more than 240 days in the year 1998 to 2000. That the work done by him is perennial in nature.

4. I.T.I.D.(C) 50/2002: This is a reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development

Organisation, Visakhapatnam in terminating the services of Sri E.Satyanarayana Casual Labour with effect from 31.1.2001 is legal and/or justified? If not, to what relief the workman is entitled?"

5. The reference was taken on file as I.T.I.D.(C) 50/2002. The workman filed his claim statement similar to the claim made in the petition filed Under Sec.2A(2) of I.D. Act in I.T.I.D.(C) 85/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time of termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.I.D.(C) 85/2001.

7. Vide orders dated 30.10.2002, passed in ITID(C) 85/2001, I.T.I.D.(C) 50/2002 is clubbed with ITID(C) 85/2001 for common disposal. For the workman, WW1 and WW2 are examined and Exs.W1 and W2 are marked. For the management, MW1 is examined and Exs.M1 to M3 are marked.

8. Heard both sides. The points that arise for a consideration are:

- 1) Whether the petitioner is a workman?
- 2) Whether the retrenchment alleged is illegal?
- 3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for?

9. Point No. 1 : Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from November, 1996 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked in all 431 days during the entire period from 1996 to 2001 and that he was appointed on daily wage basis as daily wage worker whenever there is work. WW2 is an employee (Stencil Operator) in the management concern. He is father of the petitioner in ITID No. 80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

10. The management examined joint director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000 (6) ALT at page 689 between Tanuk Municipality and S.Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the

driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitle for reinstatement. His lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of "workman" Under Section 2(s) of ID Act and the provisions of ID Act are applicable."

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of ID Act are not applicable. She relied on a decision reported in 2002 (1) ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen are not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997. Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

12. The term 'workman' defined U/Sec. 2(s) of I.D. Act includes any person employed in any industry, to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

13. Point No.2: The term 'retrenchment' is defined under Sec.2(oo) of Industrial Disputes Act. It runs, 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided under Sec.25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to

prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Considering Sec.20 (10) (b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization."

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour far completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the period from the year 1996 to 2001 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction. No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner working in the organization. Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records, I do not agree with the learned counsel for workman, that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fair admitted maintenance of attendance register even to casual labour

who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17. MW1 in the very chief examination stated WW1 worked from 1996 till 2001. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1996 to 2001 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2 that WW1 worked for at least 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18. The learned Government Pleader argued reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R.V. Apparao, G. Ramu and S.Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

SRI Y. DHILLESWARAO, Presiding Officer.

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR WORKMAN:

FOR MANAGEMENT:

WW1: E. Satyanarayana

MW1: Manjul Nath Pandey

WW2: J. Appa Rao

DOCUMENTS MARKED

FOR WORKMAN:

Ex. W1: 27-6-2001: Minutes of conciliation proceedings held on 26-6-2001 before Asst. Labour Commissioner (Central) Visakhapatnan

Ex. W2: Requisition for casual helper.

FORMANAGEMENT:

Ex. M1: 25-02-2003: Letter of authorization on behalf of management.

Ex. M2: Circular No. 169/94 dated 28-2-94 issued by Government of India/Ministry of Defence/New Delhi regarding authorization to officers to sign on all pleadings and other documents.

Ex. M3: 21-12-99: Common order dated 21-12-99 in WP No. 15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 19 जून, 2003

का. आ. 2003.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.एस.टी.एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण विशाखापट्टनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-14012/50/2001-IR(DU)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.S.T.L. and their workman, which was received by the Central Government on 19-06-03.

[No. L-14012/50/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, VISAKHAPATNAM**

PRESENT: Sri Y. Dhilleswara Rao, B.A., LL.B.,
Chairman & Presiding Officer

Dated, 17th Day of May, 2003

Common Award in I.T.L.D. (C) 83/2001 and I.T.L.D. (C) 52/2002

BETWEEN:

Pureddy Pydireddy,

S/o. Ammoru,

R/o. D. No. 58-25-73, Reddy Street,

Butchiraju Palem

Visakhapatnam-530027 ... Petitioner/Workman in

ITIDC83/2001 & ITID

C52/2002

AND

The Director

N.S.T.L., NAD Kotha Road,

Visakhapatnam-530009

Respondent/Management in

ITIDC832001 & ITID

C52/2002

ITID(C)83/2001 is filed by the workman Under Sec. 2A(2) of I.D. Act and ITID and ITID(C)52/2002 is a reference made by the Government of India Under Sec. 10(1)(d) of Industrial Disputes Act, vide reference No. L-14012/50/2001IR(DU) Dated 08-7-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D.V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on persuing the entire material on record, the Court passed the following :

AWARD

1. ITID(C)82/2001: Application filed by the workman Under Sec. 2A(2) of Industrial Disputes Act was taken on file as ITIDC82/2001. In brief, the workman's case is that he was employed by the respondent/management during October, 1989 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs. 1,560 per month. Juniors to the workmen are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central), but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions, Central Government entrusts certain special projects which are time bound and highly technical in nature. That there are no regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for Sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for Sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That he worked for more than 240 days in the year 2000. That the work done him is perennial in nature.

4. I.T.I.D.(C) 52/2002: This is reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development Organization, Visakhapatnam in terminating the services

of Sri P. Pydi Reddy Casual Labour with effect from 31-1-2001 is legal and/or justified? If not, to what relief workman is entitled?"

5. The reference was taken on file as I.T.I.D.(C) 52/2002. The workman filed his claim statement similar to the claim made in the petition filed Under Sec. 2A(2) of I.D. Act I.T.I.D. (C) 83/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time to termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.I.D. (C) 83/2001.

7. Vide orders dated 30-10-2002, passed in ITID (C) 83/2001, I.T.I.D. (C) 52/2002 is clubbed with ITID (C) 83/2001 for common disposal. For the workman, WW1 and WW2 are examined and Exs. W1 and W2 are marked. For the management, MW1 is examined and Exs. M1 to M3 are marked.

8. Heard both sides. The points that arise of a consideration are

- (1) Whether the petitioner is a workman?
- (2) Whether the retrenchment alleged is illegal?
- (3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for?

9. Point No. 1 : Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from October, 1989 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked in all 385 during the entire period from 1996 to 2001 and that he was appointed on daily wage basis as daily wage worker whenever there is work. WW2 is an employee (Stencil Operator) in the management concern. He is father of the petitioner in ITID No. 80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

10. The management examined joint director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing Sunday jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000(6) ALT at page 689 between Tanuk Municipality and S. Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the

Municipality that the driver being a casual labour, is not entitle for reinstatement. His lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of "workman" Under Section 2(s) of I.D. Act and the Provisions of I.D. Act are applicable."

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002(1) ALT 134 (DN) S.C. The full test is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen or not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997, Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

12. The term 'workman' defined U/Sec.2(s) of I. D. Act include any person employed in any Industry to do any manual, unskilled, skilled technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of Wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

13. Point No. 2: The term 'retrenchment' is defined Under Sec. 2(oo) of Industrial Disputes Act. it runs, "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided Under Sec. 25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Considering Sec. 20 (10) (b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was

ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has not vested right to claim regularization."

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the period from the year 1996 to 2001 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in his context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction. No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner working in the organization. Since it is mandatory under the Factories Laws and Minimum wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records, I do not agree with the learned counsel for workman, that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fairly admitted maintenance of attendance register even to casual labour who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17. MW1 in the very chief examination stated WW1 worked from 1996 till 2001. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1996 to 2001 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence

of WW1 and WW2 that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18. The learned Government Pleader argued reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R. V. Apparao, G. Ramu and S. Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteered to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and Seal of the Court, this the 17th day of May, 2003.

SRI Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE WITNESSES EXAMINED

FOR WORKMAN:	FOR MANAGEMENT:
WW1: P. Pydi Ready	MW1: Manjul Nath Pandey
WW2: J. Appa Rao	

DOCUMENTS MARKED

FOR WORKMAN:

Ex. W1: 27-6-2001: Minutes of conciliation proceedings held on 26-6-2001 before Asst. Labour Commissioner (Central) Visakhapatnam.

Ex. W2: Requisition for casual helper.

FOR MANAGEMENT:

Ex. M1: 25-02-2003: Letter of authorization on behalf of management.

Ex. M2: Circular No. 169/94 dated 28-2-94 issued by Government of India/Ministry of Defence/New Delhi regarding authorization to officers to sign on all pleadings and other documents.

Ex. M3: 21-12-99: Common order dated 21-12-99 in WP No. 15186, 15220, 15376, 15364, 15491 and 16459/99.

Presiding Officer
Industrial Tribunal cum Labour Court,
Visakhapatnam

नई दिल्ली, 19 जून, 2003

का. आ. 2004.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय विशाखापटनम् के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-14012/43/2001-आईआर/(डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.S.T.L. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-14012/43/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, VISAKHAPATNAM

PRESENT:

SRI Y. DHILLESWARA RAO, B.A., LL.B.,
CHAIRMAN & PRESIDING OFFICER

DATED : 17th day of May, 2003

COMMON AWARD IN I.T.I.D.(C) 82/2001 AND
I.T.I.D.(C) 47/2002

BETWEEN

Yelamanchili Naga Raju,

S/o. Somu Babu,

R/o.D.No.58-25-77, Reddy Street,

Butchiraju Palem,

Visakhapatnam-530027

...Petitioner/Workman
in ITIDC82/2001
& ITIDC47/2002

AND

The Director,
N.S.T.L., NAD Kotha Road,

Visakhapatnam - 530 009

...Respondent/
Management in ITIDC82/2001
& ITIDC47/2002

ITID(C)82/2001 is filed by the workman Under Sec. 2A(2) of I.D. Act and ITID (C)47/2002 is a reference made by the Government of India Under Sec. 10(1)(d) of Industrial Disputes Act, vide reference No. L-14012/43/2001-IR(DU) Dated 05-07-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D.V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following :

AWARD

1. ITID(C)82/2001: Application filed by the workman under Sec. 2A(2) of Industrial Disputes Act was taken on file as ITIDC82/2001. In brief, the workman's case is that he was employed by the respondent/management during February, 1996 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs.1,560/- per month. Juniors to the workmen are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central) but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions, Central Government entrusts certain special projects which are time bound and highly technical in nature. That there are no regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That he worked for more than 240 days in the year 2000. That the work done by him is perennial in nature.

4. I.T.I.D.(C) 47/2002: This is a reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development Organisation, Visakhapatnam in terminating the services of Sri Y. Naga Raju Casual Labour with effect from 31-1-2001 is legal and/or justified? If not, to what relief the workman is entitled?"

5. The reference was taken on file as I.T.I.D.(C) 47/2002. The workman filed his claim statement similar to the claim made in the petition filed Under Sec. 2A(2) of I.D. Act in I.T.I.D.(C) 82/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time of termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.I.D.(C) 82/2001.

7. Vide orders dated 30-10-2002, passed in ITID(C) 82/2001, I.T.I.D.(C) 47/2002 is clubbed with ITID(C) 82/2001

for common disposal. For the workman, WW1 and WW2 are examined and Exs. W1 and W2 are marked. For the management, MW1 is examined and Exs. M1 to M3 are marked.

8. Heard both sides. The points that arise for a consideration are :

- (1) Whether the petitioner is a workman ?
- (2) Whether the retrenchment alleged is illegal ?
- (3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for ?

9. Point No.1: Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from February, 1996 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked for 16 days in 1996, 62 days in 1997, 36 days in 1998, 81 days in 1999, 100 days in 2000 and 6 days in 2001 and that he was appointed on daily wage basis as daily wage worker whenever there is work. WW2 is an employee (Stencil Operator) in the management concern. He is father of the petitioner in ITID No. 80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

10. The management examined joint director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000(6) ALT at page 689 between Tanuk Municipality and S. Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitle for reinstatement. His lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of "workman" Under Section 2(s) of I.D. Act and the Provisions of I.D. Act are applicable."

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002 (1) ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen or not ? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997-Bord of Industrial and Financial Reconstruction (BIFR) it was observed, "High Court is held to be justified

in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

12. The term 'workman' defined U/Sec. 2(s) of I.D. Act includes any person employed in any industry, to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

13. Point No.2: The term 'retrenchment' is defined Under Sec. 2(oo) of Industrial Disputes Act. It runs, "retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided Under Sec. 25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. considering Sec. 20(10)(b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization."

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the

period from the year 1996 to 2001 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction. No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner working in the organization. Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for withholding such material records, since MW1 deposed that he can produce the records. I do not agree with the learned counsel for workman, that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fairly admitted maintenance of attendance register even to casual labour who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17 MW1 in the very chief examination stated WW1 worked from 1996 till 2001. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1996 to 2001 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2 that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18 The learned Government Pleader argued reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R. V. Apparao, G. Ramu and S. Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This

particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

SRI Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR WORKMAN :	FOR MANAGEMENT :
WW1: Y.Nagaraju	MW1: Manjul Nath Pandey
WW2 : J.Appa Rao	

DOCUMENTS MARKED

FOR WORKMAN :	
Ex.W1: 27-6-2001 :	Minutes of conciliation proceedings held on 26-6-2001 before Asst. Labour Commissioner (Central) Visakhapatnam
Ex.W2 :	Requisition for casual helper.
FOR MANAGEMENT :	
EX.M1 : 25-02-2003 :	Letter of authorization on behalf of management.
Ex.M2 :	Circular No. 169/94 dated 28-2-94 issued by Government of India/ Ministry of Defence/New Delhi regarding authorization to officers to sign on all pleadings and other documents.
Ex. M3 : 21-12-99 :	Common order dated 21-12-99 in WPNo.15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 19 जून, 2003

का. आ. 2005.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, विशाखापत्तनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-2003 को प्राप्त हुआ था।

[सं. एल-14012/49/2001-आई आर (डी यू)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 19th June, 2003

S.O. 2005.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.S.T.L. and their workman, which was received by the Central Government on 19-6-03.

[No. L-14012/49/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXUREBEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, VISAKHAPATNAM**PRESENT:**SRI Y.DHILLESWARA RAO, B.A.,LL.B.,
CHAIRMAN & PRESIDING OFFICER

DATED: 17th Day of May, 2003

**COMMON AWARD IN I.T.L.D.(C)80/2001 AND
I.T.L.D.(C) 30/2002****BETWEEN**

Madapada Kondala Rao

S/o. Appa Rao

R/o.D.No. 38-22-469, Marripalem

Ranipratap Nagar

Visakhapatnam-18

..Petitioner/Workman in

ITIDC81/2001

& ITIDC30/2002

AND

The Director,

N.S.T.L., NAD, Kotha Road,

Visakhapatnam - 530 009

..Respondent/

Management in ITIDC81/2001

& ITIDC30/2002

ITIDC81/2001 is filed by the workman Under Sec.2A(2) of I.D. Act and ITIDC 30/2002 is a reference made by the Government of India Under Sec. 10(1)(d) of Industrial Disputes Act, vide reference No. L-14012/49/2001-IR(DU) Dated 01-01-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D. V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following :

AWARD

1. ITID(C81/2001 : Application filed by the workman Under Sec. 2A(2) of Industrial Disputes Act was taken on file as ITIDC/2001. in brief, the workman's case is that he was employed by the respondent/management during June, 1996 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs. 1,560/- per month. Juniors to the workmen are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central) but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions, Central Government entrusts certain special projects which are time bound and highly technical in nature. That there are no

regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That he worked for more than 240 days in the year 2000. That the work done by him is perennial in nature.

4. I.T.I.D.© 30/2002: This is a reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development Organisation, Visakhapatnam in terminating the services of Sri M.Kondala Rao Casual Labour with effect from 31-1-2001 is legal and/or justified? If not, to what relief the workman is entitled?"

5. The reference was taken on file as I.T.I.D.© 30/2002. The workman filed his claim statement similar to the claim made in the petition filed Under Sec.2A(2) of I.D. Act in I.T.I.D.© 81/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time of termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.I.D.© 81/2001.

7. Vide orders dated 30-10-2002, passed in ITIDC81/2001, I.T.I.D.© 30/2002 is clubbed with I.T.I.D.© 81/2001 for common disposal. For the workman, WW1 and WW2 are examined and Exs.W1 and W2 are marked. For the management, MW1 is examined and Exs.M1 to M3 are marked.

8. Heard both sides. The points that arise for a consideration are :

- (1) Whether the petitioner is a workman ?
- (2) Whether the retrenchment alleged is illegal ?
- (3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for ?

9. Point No.1: Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from June, 1996 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked in all 138 days during the entire period from 1997 to 2000 and that he was appointed on daily wage basis. WW2 is an employee (Stencil) Operator

in the management concern. He is father of the petitioner in ITID No.80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

10. The management examined Joint Director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000 (6) ALT at page 689 between Tanuk Municipality and S Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26.9.1980 was terminated from service on 22.12.1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitle for reinstatement. His Lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of "workman" Under Section 2(s) of I.D. Act and the Provisions of I.D. Act are applicable."

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002 (1) ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen are not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997-Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

12. The term 'workman' defined U/Sec.2(s) of I.D. Act includes any person employed in any industry, to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of Wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

13. Point No. 2: The term 'retrenchment' is defined Under Sec.2(cc) of Industrial Disputes Act. It runs, "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the

case on hand. This retrenchment becomes illegal in case conditions provided Under Sec.25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The Learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Ensuring Sec.20 (10) (b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence by regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization."

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the period from the year 1997 to 2000 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction. No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner working in the organization. Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records. I do not agree with the learned counsel for workman that the burden is on the management to prove days of work of WW1. But under

law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fairly admitted maintenance of attendance register even to casual labour who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17. MW1 in the very chief examination stated WW1 worked from 1997 till 2000. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1997 to 2000 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2 that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18. The learned Government Pleader argued reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R.V. Appa Rao, G. Ramu and S. Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

SRI Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE WITNESSES EXAMINED
FOR WORKMAN: FOR MANAGEMENT:

WW1: M.K. ondala Rao

MW1: Manjul Nath Pandey

WW2: J. Appa Rao

DOCUMENTS MARKED FOR WORKMAN:

Ex.W1: 27-6-2001: Minutes of conciliation proceedings held on 26-6-2001 before Asstt. Labour Commissioner (Central), Visakhapatnam

Ex.W2: Requisition for casual helper.

FOR MANAGEMENT:

Ex.M1: 25-02-2003: Letter of authorization on behalf of management.

Ex.M2: Circular No. 169/94 dated 28-2-94 issued by Government of India, Ministry of Defence, New Delhi regarding authorization to officers to sign on all pleadings and other documents.

Ex.M3: 21-12-99: Common order dated 21-12-99 in WP No. 15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 19 जून, 2003

का. आ. 2006.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, विशाखापत्तनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-2003 को प्राप्त हुआ था।

[सं. एल-14012/47/2001-आईआर (डी यू)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2006.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.S.T.L. and their workman, which was received by the Central Government on 19-6-03.

[No. L-14012/47/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, VISAKHAPATNAM

PRESENT:

Sri Y. Dhilleswara Rao, B.A., LL.B.,
Chairman & Presiding Officer

Dated: 17th Day of May, 2003

**COMMON AWARD IN I.T.D. (C) 80/2001 AND
I.T.D. (C) 51/2002**

BETWEEN

Jannarapu Anand
S/o. Appa Rao
R/o. D. No. 39-30-68, Gamndhi Nagar
Punjab Hotel Area, Madhavadhara
NH-5 Road
Visakhapatnam ...Petitioner/Workman in
ITID©80/2001
& ITID©51/2002

AND

The Director,
N.S.T.L., NAD, Kotha Road,
Visakhapatnam - 530 009 ...Respondent/
Management in ITID©80/2001
& ITID©51/2002

ITID(C)80/2001 is filed by the workman under Sec. 2A(2) of I.D. Act and ITID(C) 51/2002 is a reference made by the Government of India under Sec. 10(1)(d) of Industrial Disputes Act, vide reference No. L-140 12/47/2001-IR(DU) dated 5-7-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D. V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following :

AWARD

1. ITID(C)80/2001: Application filed by the workman Under Sec. 2A(2) of Industrial Disputes Act was taken on file as ITID©80/2001. In brief, the workman's case is that he was employed by the respondent/management during July, 1989 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs. 1,560/- per month. Juniors to the workmen are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central) but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions, Central Government entrusts certain special projects which are time bound and highly technical in nature. That there are no regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea

trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That he worked for more than 240 days in the year 2000. That the work done by him is perennial in nature.

4. **I.T.D.(C) 51/2002:** This is a reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development Organisation, Visakhapatnam in terminating the services of Sri J. Anand, Casual Labour with effect from 31-1-2001 is legal and/or justified? If not, to what relief the workman is entitled?"

5. The reference was taken on file as I.T.D.(C) 51/2002. The workman filed his claim statement similar to the claim made in the petition filed under Sec. 2A(2) of I.D. Act in I.T.D.(C) 80/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time of termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.D.(C) 80/2001.

7. Vide orders dated 30-10-2002, passed in ITID(C) 80/2001, I.T.D.(C) 51/2002 is clubbed with ITID(C) 80/2001 for common disposal. For the workman, WW1 and WW2 are examined and Exs. W1 and W2 are marked. For the management, MW1 is examined and Exs. M1 to M3 are marked.

8. Heard both sides. The points that arise for a consideration are:

- (1) Whether the petitioner is a workman?
- (2) Whether the retrenchment alleged is illegal?
- (3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for?

9. **Point No. 1:** Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from July, 1989 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked 153 days in 1996, 15 days in 1995, 101 days in 1998, 41 days in 1998 and 190 days in 2000 and that he was appointed on daily wage basis as daily wage worker for a limited purpose. WW2 is an employee (Stencil Operator) in the management concern. He is father of the petitioner in this ITID. He deposed similar

to MW1 and denied similar suggestions during his cross-examination.

10. The management examined joint director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000 (6) ALT at page 689 between Tanuk Municipality and S. Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitle for reinstatement. His Lordship observed, "every person employed in an industry in whatever capacity except in supervisory cadre has to be considered as workman in the light of the definition of 'workman' under Section 2(s) of I.D. Act and the provisions of I.D. Act are applicable".

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002 (1) ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen or not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997—Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government". This decision is no way helpful to the management.

12. The term 'workman' defined u/Sec.2(s) of I.D. Act includes any person employed in any industry, to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

13. **Point No. 2 :** The term 'retrenchment' is defined under Sec. 2(oo) of Industrial Disputes Act. It runs, " 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of

disciplinary action, but does not include A to C categories". The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided under Sec. 25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Considering Sec. 20 (10) (b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization".

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the period from the year 1996 to 2001 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction". No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner working in the organization. Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management

ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records. I do not agree with the learned counsel for workman that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fairly admitted maintenance of attendance register even to casual labour who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17. MW1 in the very chief examination stated WW1 worked from 1996 till 2001. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1996 to 2001 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2, that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18. The learned Government Pleader argued remstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date". When a suggestion was given that one R. V. Apparao, G. Ramu and S. Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to remstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

SRM. Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR WORKMAN:

WW1 : J. Anand

WW2 : J. Appa Rao

FOR MANAGEMENT:

MW1 : Manjul Nath Pandey

DOCUMENTS MARKED

FOR WORKMAN:

Ex. W1: 27-6-2001 : Minutes of conciliation proceedings held on 26-6-2001 before Asst. Labour Commissioner (Central) Visakhapatnam.

Ex. W2 : Requisition for casual helper.

FOR MANAGEMENT:

Ex. M1: 25-02-2003 : Letter of authorization on behalf of management.

Ex. M2: : Circular No. 169/94 dated 28-2-94 issued by Government of India/ Ministry of Defence/New Delhi regarding authorization to officers to sign on all pleadings and other documents.

Ex. M3: 21-12-99 : Common order dated 21-12-99 in WP No. 15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 19 जून, 2003

का. आ. 2007.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/ग्राम न्यायालय, विशाखापत्तनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-14012/44/2001-आई आर (डी यू.)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2007.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management N.S.T.L. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-14012/44/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, VISAKHAPATNAM****PRESENT:**

SRI Y. DHILLESWARA RAO, B.A., LL.B.,
CHAIRMAN & PRESIDING OFFICER

Dated: 17th Day of May, 2003

**COMMON AWARD IN I.T.I.D.(C)79/2001 AND
I.T.I.D.(C) 48/2002**

BETWEEN

Janga Rama Krishna,
S/o. Ananda Rao,
R/o.D.No.6-164/1,
Meghadrigadda
Durganagar (PO)
Visakhapatnam - 530 029

Petitioner/Workman
in ITID©79/2001 &
ITID ©48/2002

AND

The Director

N.S.T.L., NAD Kotha Road,

Visakhapatnam - 530 009 .. Respondent/Management
in ITID©79/2001 &
ITID©48/2002

ITID(C)79/2001 is filed by the workman Under Sec. 2A(2) of I.D. Act and ITID (C)48/2002 is a reference made by the Government of India Under Sec. 10(1)(d) of Industrial Disputes Act, vide reference No.L-14012/44/2001-IR(DU) Dated 5-7-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D.V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following:

AWARD

1. ITID(C)79/2001: Application filed by the workman Under Sec. 2A(2) of Industrial Disputes Act was taken on file as ITID©79/2001. In brief, the workman's case is that he was employed by the respondent/management during February, 1995 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs. 1,560/- per month. Juniors to the workman are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central) but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not

maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions, Central Government entrusts certain special projects which are time bound and highly technical in nature. That there are no regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That the work done by him is perennial in nature.

4. I.T.I.D.(C)48/2002: This is a reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development Organisation, Visakhapatnam in terminating the services of Sri J.Rama Krishna Casual Labour with effect from 31-1-2001 is legal and/or justified? If not, to what relief the workman is entitled?"

5. The reference was taken on file as I.T.I.D.(C) 48/2002. The workman filed his claim statement similar to the claim made in the petition filed Under Sec.2A(2) of I.D. Act in I.T.I.D.(C) 79/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time of termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.I.D.(C) 79/2001.

7. Vide orders dated 30-10-2002, passed in ITID(C) 79/2001, I.T.I.D.(C) 48/2002 is clubbed with ITID(C) 79/2001 for common disposal. For the workman, no witnesses are examined and no documents are marked. For the management also no witnesses are examined and no documents are marked.

8. Heard both sides. The points that arise for a consideration are:

- (1) Whether the petitioner is a workman?
- (2) Whether the retrenchment alleged is illegal?
- (3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for?

9. Point No. 1 : Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from February, 1995 until termination on 16th January, 2001.

He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked for 19 days in 1997, 53 days in 1998, 10 days in 1999 and 65 days in 2000 and that he was appointed on daily wage basis as daily wage worker whenever there is work. WW2 is an employee (Stencil Operator) in the management concern. He is father of the petitioner in ITID No.80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

10. The management examined joint director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000 (6) ALT at page 689 between Tanuk Municipality and S. Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitle for reinstatement. His lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of workman Under Section 2(s) of I.D. Act and the Provisions of I.D. Act are applicable."

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002 (1) ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen or not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997. Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

12. The term 'workman' defined U/Sec.2(s) of I.D. Act includes any person employed in any industry, to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of Wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The

point is accordingly answered.

13. **Point No.2:** The term 'retrenchment' is defined Under Sec.2(oo) of Industrial Disputes Act. It runs, " 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided Under Sec.25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Considering Sec. 20 (10) (b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization."

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present; there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the period from the year 1997 to 2000 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction. No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner

working in the organization. Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records, I do not agree with the learned counsel for workman, that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fair admitted maintenance of attendance register even to casual labour who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17. MW1 in the very chief examination stated WW1 worked from 1997 till 2000. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1997 to 2000 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2 that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18. The learned Government Pleader argued reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R.V. Apparao, G. Ramu and S. Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

SRI Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR WORKMAN:

WW1 : J. Rama Krishna

WW2 : J. Appa Rao

FOR MANAGEMENT:

MW1 : Manjul Nath Pandey

DOCUMENTS MARKED

FOR WORKMAN:

Ex.W1: 27-6-2001 : Minutes of conciliation proceedings held on 26-6-2001 before Asst. Labour Commissioner (Central) Visakhapatnam.

Ex.W2 : Requisition for casual helper.

FOR MANAGEMENT:

Ex.M1: 25-02-2003 : Letter of authorization on behalf of management.

Ex.M2: : Circular No. 169/94 dated 28-2-94 issued by Government of India/ Ministry of Defence/New Delhi regarding authorization to officers to sign on all pleadings and other documents.

Ex.M3: 21-12-99 : Common order dated 21-12-99 in WP No.15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 19 जून, 2003

का. आ. 2008.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, विशाखापत्तनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-2003 को प्राप्त हुआ था।

[सं. एल-14012/45/2001-आई आर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2008.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management N.S.T.L. and their workman, which was received by the Central Government on 19-6-2003.

[No. L-14012/45/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, VISAKHAPATNAM

PRESENT:

SRI Y. DHILLESWARA RAO, B.A., LL.B.,
CHAIRMAN & PRESIDING OFFICER

Dated : 17th Day of May, 2003

**COMMON AWARD IN I.T.I.D. (C) 78/2001 AND
I.T.I.D.(C) 49/2002**

BETWEEN:

Madugula Venkatarao

S/o. Allayya

R/o. D. No. 9-225,

Narasimhanagar,

Near Dr. Suryanarayana

Gopalapatnam PO.

Visakhapatnam-530 027 ... Petitioner/Workman in
ITID(C) 78/2001 & ITID (C)
49/2002

AND

The Director

N.S.T.L.,

NAD Kotla Road,

Visakhapatnam-530 009 ... Respondent/Management
in ITID(C) 78/2001 & ITID (C)
49/2002

ITID(C) 78/2001 is filed by the workman Under Sec. 2A(2) of I.D. Act and ITID (C) 49/2002 is a reference made by the Government of India Under Sec. 10(1)(d) of Industrial Disputes Act, vide reference No. L-140 12/45/2001-IR(DU) Dated 5-7-2002.

This dispute is coming on for final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Smt. D. V. Lakshmi, Government Pleader for respondent/management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following:

AWARD

1. ITID(C) 78/2001: Application filed by the workman Under Sec. 2A(2) of Industrial Disputes Act was taken on file as ITID (C) 78/2001. In brief, the workman's case is that he was employed by the respondent/management during January, 1996 as a Casual Helper. He worked continuously until 16-1-2001 when his services were terminated illegally. There were artificial break ups of one or two days during the above period of service. At the time of termination, the workman was drawing Rs. 1,560/- per month. Juniors to the workmen are being continued in service. The workman raised dispute before the Assistant Commissioner of Labour (Central) but the management did not agree to reconsider the issue. Therefore, sought for a direction to reinstate him with back wages and continuity of service.

2. The respondent filed counter denying the material allegations. It was contended the petition is not maintainable and the claimant is not a workman. That the respondent establishment is a Research Institute. In addition to the day to day research functions, Central Government entrusts certain special projects which are time bound and high technical in nature. That there are no regular sanctioned posts for these special projects. So as to complete such projects in time, the respondent engages some personnel for sundry jobs such as shifting of heavy equipment from laboratory to the Naval Platforms for sea trial, loading, unloading and shifting of furniture etc. on payment of daily rates, without considering, age, educational qualification and other factors which are essential for regular appointments as per rules. The claimant was engaged on daily wage basis depending on the exigencies of work for sundry jobs, intermittently. The work done by him is not perennial in nature. He never worked for 240 days or more in any year. Therefore, prayed to dismiss the petition with costs.

3. The claimant filed his rejoinder contending that he is a workman and the petition is maintainable. That he worked for more than 240 days in the year 2000. That the work done by him is perennial in nature.

4. **I.T.I.D.(C) 49/2002:** This is a reference by the Government of India, to adjudicate the dispute, "Whether the action of management of Naval Science & Technological Laboratory Defence Research & Development Organisation, Visakhapatnam in terminating the services of Sri M. Venakta Rao Casual Labour with effect from 31-1-2001 is legal and/or justified? If not, to what relief the workman is entitled?"

5. The reference was taken on file as I.T.I.D.(C) 49/2002. The workman filed his claim statement similar to the claim made in the petition filed Under Sec. 2A(2) of I.D. Act in I.T.I.D.(C) 78/2001. It was further alleged that he was not given any notice or compensation in lieu of notice, at the time of termination.

6. The management filed its written statement denying the allegations made in the claim statement. The contention of the management is the same which was raised in its counter filed in I.T.I.D.(C) 78/2001.

7. Vide orders dated 30-10-2002, passed in ITID(C) 78/2001, I.T.I.D.(C) 49/2002 is clubbed with ITID(C) 78/2001 for common disposal. For the workman, WW1 and WW2 are examined and Exs. W1 and W2 are marked. For the management, MW1 is examined and Exs. M1 and M2 are marked.

8. Heard both sides. The points that arise for a consideration are:

- (1) Whether the petitioner is a workman?
- (2) Whether the retrenchment alleged is illegal?
- (3) Whether the petitioner is entitled for reinstatement and other consequential reliefs as prayed for?

9. Point No. 1 : Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from January, 1996 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked in all 285 days during the entire period from 1996 to 2001 and that he was appointed on daily wage basis as daily wage worker for a limited purpose. WW2 is an employee (Stencil Operator) in the management concern. He is father of the petitioner in ITID No. 80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

10. The management examined joint director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000 (6) ALT at page 689 between Tanuk Municipality and S. Venkateswar Rao and Others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitle for reinstatement. His lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of "workman" Under Section 2(s) of I.D. Act and the Provisions of I.D. Act are applicable."

11. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002 (1) ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen or not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997-Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

12. The term 'workman' defined U/Sec.2(s) of I.D. Act includes any person employed in any industry, to do

any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of Wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

13. Point No. 2 : The term 'retrenchment' is defined Under Sec.2(oo) of Industrial Disputes Act. It runs, "'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided Under Sec. 25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

14. The learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted, burden is on WW1 to prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Considering Sec. 20 (10) (b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization."

15. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

16. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 worked, for the reason management has admitted that WW1 has worked during the period from the year 1996 to 2001 and record showing the period of work is available. It is a fact WW1 did not

produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction." No doubt, WW2 is an interested person but his evidence cannot be thrown away on that ground for the reason WW2 is a permanent employee in the organization of the management and he is personally aware of the petitioner working in the organization. Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records, I do not agree with the learned counsel for workman, that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me, MW1 fairly admitted maintenance of attendance register even to casual labour who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

17. MW1 in the very chief examination stated WW1 worked from 1996 till 2001. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1996 to 2001 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2 that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

18. The learned Government Pleader argued, reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1. stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R. V. Apparao, G. Ramu and S. Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise

work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

SRI Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE WITNESSES EXAMINED

FOR WORKMAN :

WW1 : M. Venkata Rao

WW2 : J. Appa Rao

FOR MANAGEMENT :

MW1 : Manjul Nath Pandey

DOCUMENTS MARKED

FOR WORKMAN :

Ex.W1: 27-6-2001 : Minutes of conciliation proceedings held on 26-6-2001 before Asst Labour Commissioner (Central) Visakhapatnam

Ex.W2 : Requisition for casual helper.

FOR MANAGEMENT :

Ex.M1: 25-02-2003 : Letter of authorization on behalf of management.

Ex.M2: : Circular No. 169/94 dated 28-2-94 issued by Government of India/ Ministry of Defence/New Delhi regarding authorization to officers to sign on all pleadings and other documents.

Ex.M3: 21-12-99 : Common order dated 21-12-99 in WP No.15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 19 जून, 2003

का. आ. 2009.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जवाहर नवोदय विद्यालय के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय कोल्हापुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-42012/184/1998-आईआर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2009.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Kolhapur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jawahar Navodaya Vidyalaya and their workman, which was received by the Central Government on 19-06-03.

[No. L-42012/184/1998-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SHRI V. S. KULKARNI, PRESIDING OFFICER,
LABOUR COURT AT KOLHAPUR

Reference (IDA) No. 45/1999.

BETWEEN:

The Principal,

Jawahar Navodaya Vidyalaya,

Kagal,

C/o. Alka Sheti Farm, Sangaon Road,

Kagal, District-Kolhapur

... First Party.

AND

Shri Nazir Mumtaz Naikwadi,

Near Shahu Hall, Kagal,

District-Kolhapur.

... Second Party

Coram : Shri V. S. Kulkarni, Presiding Officer

Advocates : Shri S. R. Pisal, Asstt. Govt. Pleader for
the first party.

Shri A. D. Patil, Advocate for the second
party.

AWARD

(Date : 6-6-2003)

Central Govt. has forwarded this reference as per provisions of the Industrial Disputes Act, 1947 and rules there under.

2. The facts, in brief, of this case are as under :—

The second party has filed statement of claim and claimed reinstatement with continuity of service and full

back wages alleging that he was appointed for a probationary period of two years from 1-7-1994. Before completion of probation period services of the second party were terminated without any reason. Before termination order, the first party had given two letters to the second party on 9-3-1995 and 30-3-1995 asking clarification from him in respect of criminal case filed against him bearing No. 132/1990. The said case was bogus. The second party submitted reply accordingly. In spite of submission, the first party has terminated services of the second party. Thereafter said criminal case was disposed of on 28-4-1995. The first party had no authority to terminate services of the second party before completion of probation period. Navodaya Vidyalaya Samiti had power to appoint and dismiss services of an employee. There is no pre-sanction from the Samiti to terminate services of the second party. Hence, the first party has no authority to terminate services as of the second party. The dismissal order is void ab initio and liable to be cancelled in limine. The termination order casts stigma against the second party but the first party had failed to hold an enquiry against the second party. The second party had served for more than 240 working days with the first party and services of the permanent employee can not be terminated without giving him an opportunity to defend. On these grounds, the second party has prayed that he be reinstated with continuity of service and full back wages.

3. The first party has resisted this claim by filing their written statement at Ex. C-18. They have denied all the allegations and contended that the Jawahar Navodaya Vidyalaya, Kagal is established under special Memorandum by the Ministry of Human Resources Development Govt. of India, New Delhi. The institution is run by aid and power of Central Govt. and all Central Govt. rules are applicable to the employees working in Jawahar Navodaya Vidyalaya. As such, this Court has no jurisdiction. The second party was appointed for probation period of two years in the institution as a Cook on 1-7-1994. The second party was asked to file the required attestation form to first party office with a verification in that attestation form. The second party was specifically asked whether any criminal case is pending against him and he ever been arrested or prosecuted. In the said attestation form the second party has given negative answers stating clearly that no criminal case is pending against him. Subsequently, in the enquiry it was revealed that a criminal case bearing No. 132/1990 under Sec. 324, 323, 504, 506 r/w. 34 of Indian Penal Code, is registered against the second party in Kagal Police Station and the same is pending. Therefore, on 9-3-1995 the first party office issued notice to the second party. The second party gave explanation on 12-3-1995 alleging that the verification of police is false and wrong. The second party was specifically warned by the first party by putting condition in the appointment order that if any declaration given or information furnished by him proves to be false or if found to have wilfully suppressed any material

information, he will be liable to removed from service. In spite of this condition and warning the second party clearly disobeyed order of the first party. The second party has given false information regarding the criminal offence registered against him at Kagal, Court. Not only this, the second party has stated that the enquiry report of Supdt. of Police, Kolhapur is false. It shows that the second party is liar and has suppressed true facts while achieving said job from the first party. The second party was appointed temporarily for probationary period. Hence, action taken by the first party against the second party is legal, proper and correct. The action is taken under Central Civil Services Rules. The reason of termination was fully known to the second party. The Principal i.e. the first party is an authority to appoint and dismiss an employee. All powers are vested in the Principal. Hence, action of Principal is legal and correct. In supplying false information case it is not necessary to get pre-sanction for the dismissal from the Dy. Director. The second party was appointed as temporary and probationer. Hence, rule of 240 days is not applicable. The second party is terminated and pay of one month is also paid to and accepted by him. The second party has not come with clean hands. Hence, he is not entitled to any relief as prayed. On these grounds, the first party prayed that the claim of second party be dismissed with costs.

4. In view of these facts as stated above, issued were framed by my learned predecessor at Ex. 19. I reproduce the same with my findings thereon as under :—

ISSUES	FINDINGS
(1) Does the second party prove that termination of his services as alleged is illegal?	'No'
(2) Whether second party is entitled for reinstatement with continuity and back wages with cost as alleged?	'No'
(3) What Award?	'As Per Final Award'

REASONS

5. Issues No. 1 and 2 :—These issues relate with legality of the termination and relief claimed by the second party. The second party has claimed that he was in employment of the first party as a Cook. He worked more than 240 working days. Hence, his services cannot be terminated without following due procedure of law i. e. without holding enquiry. There is no reason in the termination order. The first party has no authority to terminate his services. On these grounds the second party has prayed reinstatement with continuity of service and full back wages. The first party has resisted the claim by denying these allegations and contended that they have authority to dismiss the second party. The second party has not come before this Court with clean hands. The second party has furnished misleading information and

false statement in the declaration form at the time of appointment. It was found to be false during enquiry with the Superintendent of Police, Kolhapur. The second party has given reply alleging that the report of the police is false but subsequently he admitted that he is implicated in criminal case.

6. The parties have not led any oral evidence in support of their allegations. Both parties have produced documentary evidence and written arguments. The documents on record are not disputed. The documents on record clearly show that the termination order was issued to the second party. As per rules of Central Civil Services Rules. It is not disputed that the second party was involved in the offence registered against him in Kagal Police Station and case is pending in J. M. F. C., Kagal Court bearing No. 122/1990. It is true that the said case has been disposed of subsequently. However, the fact remains that the case was pending against him when he got his appointment with the first party. The first party has produced appointment order, attestation form alongwith Ex. C-29. It is dated 26-5-1994. The appointment letter contains attestation form with warning that if false information has been furnished or there has been suppression of any material information in the attestation form, the services of the person would be liable to be terminated. In spite of this warning in attestation form, para No. 12 discloses that the second party has furnished false information and as such the second party has forfeited claim over employment with the first party. The documents submitted by the first party further show that the action of the first party Principal is in consonance with meeting of their Apex Body and the Resolution. All these circumstances on record show that there is no any unfair labour practice on part of the first party. The second party was being on probation and temporary he can be terminated at any time without assigning any reason. Unless probation period is completed and employee is confirmed in service, he can not get protection of the service rules. In such circumstances, I find that there is no illegality in termination of services of the second party and as such, the second party is not entitled to any relief as claimed by him. He is already paid one month's pay in lieu of notice. Hence, the second party is not entitled to any relief. Therefore, I have replied both these issues in the negative.

7. In view of this observation, finding and discussion as made above the claim of second party workman is liable to be rejected. Hence, I pass following Award :—

AWARD

- (i) The claim of second party workman stands rejected.
- (ii) No order as to costs.

Kolhapur.

Dated : 6-6-2003. V. S. KULKARNI, Presiding Officer

नई दिल्ली, 19 जून, 2003

का. आ. 2010.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-31/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-40025/11/2003-आई आर (सी यू.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2010.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-31/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-40025/11/2003-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: - Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 29th day of April, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 31/2002

(Old I.D. No. ITID 7/2001 Transferred from Industrial Tribunal-cum-Labour Court, Visakhapatnam)

Between:

Sri I. Satyanarayana,

S/o Kannayya,

Rukminipuram (Savari),

Nayanamma Palem, Regupalem (P.O.),

Elamanchili (Tq), Visakhapatnam (District).Petitioner

AND

1. The Chief General Manager,
Telecom A.P. Circle, Doorsanchar
Bhavan, Hyderabad.
(Now under BSNL)
2. The Telecom District Manager,
Rajahmundry E.G. Dist.
(Now under BSNL)

3. The Sub-divisional Officer,
Telecom Department, Razolu,
E.G. District. (Now under BSNL) Respondents

Appearances:

For the Petitioner : Sri P. Sasank, Advocate

For the Respondent : Sri D. Ramesh, Advocate

AWARD

This case I.D. No. ITID 7/2001 is transferred from Industrial Tribunal-cum-Labour Court, Visakhapatnam in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.LD. No. 31/2002. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts stated in the petition are: That the Petitioner was terminated on 30-9-95. He was drawing wages of Rs. 2750/- per month at the time of termination. The Petitioner served a demand letter dated 25-9-2000 to the Respondent by registered post acknowledgement due to reconsider the decision of termination of his service and to take him back with service benefits. The Respondent replied that it is not possible to reconsider the decision already taken.

3. That the workman was engaged as casual mazdoor w.e.f. 1-2-83. He approached the Hon'ble High Court on his termination on 30-9-95 thereupon the Hon'ble High Court directed the Respondent to provide employment as per availability. In spite of personal representations the management not allowed the order. On the contrary, the management has taken juniors to the Petitioner namely, S/Sri B. Nageswara Rao, S. K. Meera Sahib, K. Rama Krishna, V. V. Raghavulu and A. V. Rama Krishna Rao. Then the Petitioner approached the ALC(C) where he was advised to approach the Labour Court u/s 2A(2) of the I.D. Act where the Labour Court authorized for adjudication by the Hon'ble High Court. As the management was transferred with Bharat Sanchar Nigam Limited under whom juniors to the workman are continuing and they may also get confirmed for regularization of the services. Hence, he prays for providing him employment with the past management telecom Department and continuation with present management BSN Ltd. He prays for reinstatement with back wages, continuity of service attendant benefits.

4. A counter was filed stating that the Petitioner is not a workman as defined in I.D. Act and the Respondent is not the management. Any of the Respondent's Telecom Industries can not be termed as Industry. Therefore this petition is not maintainable. The Petitioner was taken on Mastar as casual mazdoor on daily wages for various duties

like, erection of lines and wires for provisions of new phone connections and maintenance. The workman was never dismissed nor retrenched but he voluntarily abstained from duty with effect from 1-10-95 without intimation. The allegation that the workman was recruited as casual mazdoor w.e.f. 1-2-83 and terminated from duties w.e.f. 30-9-95 is not correct. His last drawn wages are Rs.1788/- per month but not 2750/- per month. The mazdoors mentioned in the petition are working is not correct. His wages from September, 1994 were Rs.1630/- per month and was increased to 1788/- per month by September, 1995 but not Rs.2750/-. Nothing known about the Petitioner from 1-10-95 to the Respondent and he approached the ALC(C) as well as filed this application to cover up his laches. The Petitioner never represented nor approached the management for providing work to him. In the Department, works are being done by the available casual mazdoors only without engaging fresh mazdoors. The SDOT, Razole also informed that the request of the workman for re-engagement was not accepted due to lack of work. It is submitted that any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement by virtue of government instructions. The Petitioner is not entitled for re-engagement as he absconded beyond the period prescribed. Hence, the petition may be dismissed.

5. The Petitioner Sri I. Satyanarayana deposed as WW1. In his chief examination he deposed the facts as mentioned in the petition. He worked under SDOT, Vijayanagaram and finally he was at Rajole under SDOT. His juniors are still working. He used to approach the office every month for re-engagement. He sent a notice on 25-9-2000 which is Ex. W1. He prays for reinstatement with back wages and continuity of service as his juniors are regularized and they are still working. At the time of termination, he was not given compensation or pay in lieu of notice. He was drawing around Rs.2000/- at the time of disengagement.

6. In the cross examination he deposed that he was engaged through employment exchange card. He did not file any wage slip of his last drawn wage. He did not approach the Hon'ble High Court. It is not true to suggest that he himself absconded from duties with effect from 1-10-95. There is no written proof to prove that he approached the management for re-engagement. It is not true to suggest that his juniors were engaged and regularized due to his absence and according to their seniority. It is not true to suggest that as the Petitioner absconded from service he is not entitled for service benefits and retrenchment compensation. He is not aware of any rules in respect of any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement as per Central Government instructions.

7. Sri K. Sarveshwar Rao, Divisional Engineer, Telecom, Jagityala deposed as MW1. He worked at Rajole during 1993 to June, 1998 as SDOT, Rajole. He knows the Petitioner. The Petitioner also worked in his tenure. He used to do the work of erection, digging and other pettyworks. The payment usually made according to number of days lie worked as per Government of India rates. The Respondent sent the Petitioner to neighbouring SDO. He worked for some time and absconded from Rajole SDO in October, 1995. Due to satellite system man power also reduced. If at all there is any work of digging etc. the Respondent is giving the work to contract agency by inviting tenders. Hence, there is no fresh appointment of casual labours. Those who are working continuously are transferred to other required places a telephone mechanics and regular mazdoors. The Petitioner did not represented till this case filed on 7-12-2000. As there are no posts of casual workers or temporary NMR basis workers in the Department the Petitioner cannot be reinstated into service. In the cross examination he deposed that he cannot say unless he see the records that as per SDO seniority Petitioner is entitled to have regularization of service.

8. Sri M. S. Prasad, SDO, Telephone, Rajole deposed as MW2. In his chief examination he deposed that he knows the Petitioner has filed the case against the management. The Petitioner in fact absconded from duty without any intimation to the management or leave application. As casual labourers are daily wagers they do not have any leave accrued. Ex. M1 is attendance of workers from September, 1994 to April, 1997. Ex. M2 shows muster rolls with acquittance register from 1-9-94 to April, 1997. Ex. M3 is the seniority list of casual mazdoors as on 31-12-96. The Petitioner is not entitled to any relief as he was casual mazdoor.

9. In the cross examination he deposed that all the documents relates to Petitioner's service. It is not true to suggest that he was dismissed without notice or pay in lieu there off, therefore he is entitled for reinstatement with back wages. As per Ex. M3 Petitioner's juniors are still working as they had not abandoned their service. Petitioner did not approach with any request for employment nor gave representation.

10. It is argued by the Learned Counsel for the Petitioner that the Petitioner has joined as man mazdoor with effect from 1-2-83 with the management and his services are disengaged without any notice or information of re-employment with effect from 30-9-95. The workman after being disengaged, whenever he used to approach to provide employment, the management used to provide temporary daily wage employment at the rate of Rs.59-60 ps. to Rs.77-50 ps. as per rates up to 1997 April time to time in irregular continuation. The payments were made on vouchers as per the documents provided by the management marked on their behalf as such the nature of

'abscond' does not arise. In fact the workmen seniority list does not included with such irregular continuation of days of work. His services are engaged under exemption of employment exchange rules as per letter No. 296-21/68 of DG & PNT New Delhi dated 23-8-1973. Accordingly the appointment orders were issued by the Department. He got enrolled with employment exchange also at Visakhapatnam. The workman submits that he worked for 2205 days as per the published seniority list of the management marked by them under serial No. 88. At the time of his disengagement he was drawing Rs. 2750/- per month. His juniors as per seniority list at serial No. 91 namely D. Naeswara Rao worked for 2156 days. Seniority list No. 93 S. K. Meera Saheb worked for 2115 days, K. Rama Krishna, serial No. 95 worked for 2095 days. Seniority list No. 135, R. Ramana worked 1105 days, serial No. 136 R. Satyanarayana 1044 days and Kuthala Ramana serial No. 138 worked for 823 days etc. From the date of his disengagement the workman was nowhere employed in anticipation of his continuation with the management like his juniors. It is untrue to say that after the disengagement the Petitioner did not approach. He approached but he was given some daily wage employment some time or the other. That the nature of work is perennial because the duty was to keep maintenance of the cables, erection and trouble shooting under the supervision of the concerned supervisor or engineer. As such the retrenchment of his services are not necessary inspite of establishment and he never absconded from the service as per the version of the management. In a recent decision made in APLJ 2002 (3) page 3 Short notes, in the case of Union of India Vs. P. Mahipal Reddy, W.P. No.1211 of 1995 wherein Hon'ble Justice L. Narasimha Reddy pronounced his order on 7-8-2002 that "Industrial Disputes Act 1947 Sec.2(A) (II) and Sec.25-F - in proceedings initiated by workman before Industrial Tribunal in a dispute raised under Sec.2(A) II except reinstatement the Tribunal cannot direct regularization when the incumbent worked for period exceeding 240 days retrenchment without following the provisions of Sec. 25F is illegal." In another case the Chairman Kun Chandra Grama Seva Sahakari Samithi Ltd., Vs. Judge, Labour Court Bikanar and another in 1999 LLR page 1058 Rajasthan High Court that, "termination of an employee having worked for more than one year without payment of retrenchment compensation will be set aside. The Labour Court awarded reinstatement with full back wages to the workman." In other case MCD Vs. Praveen Kumar Jain and others 1998 (II) LLJ page 674 supreme Court it is held that, "even a daily rated workman discharged from service without complying Sec.25-F of I.D. Act will be illegal and the workers will be entitled to reinstatement with 50% back wages." In the case of Eswar Chand and others Vs. Manager Dalmia Dairy Industries 1997 LLR page 366 Rajasthan High Court it is held that, "Retrenchment of workman *vide* retain his juniors will be illegal entitling him to reinstatement." In the case of Mohan Lal Vs. Bharath

Electronics Ltd., 1981 3 SCC page 225 held that, "retrenchment without complying with Sec. 25-F would be *void ab-initio*. Such action would entitle the workman to a declaration for continuation in service with full back wages." In the case of L. Robert D' Souza Vs. Executive Engineer, Southern Railway 1982 1 SCC page 645 and 1982 SCCL & S 124 that, "termination of service for unauthorized absence from duty amounts to retrenchment and therefore the service of even a casual or seasonal workman who rendered continuous service for one year or more cannot be terminated on such ground without comply with the requirements of Sec.25-F of I.D. Act." And in the case of Jagajeevan Bhimji Vaja Vs. Union of India 1996 1 LLJ 629 that, "the phrase of a seasonal character has not been defined in Industrial Disputes Act. In order to decide whether a particular establishment is of a seasonal character it has to be seen whether it's entire work is seasonal in character. Where only one of the sections of the Industrial establishment workers in a particular season the answer to the question would depend upon various other factors if in other seasons such an industrial establishment continuous to employ a sizable number of workmen out of the total strength of workmen engaged in the factory is cannot be said to be of a seasonal character."

11. In view of the above rulings he submits that the workman is having unquestionable seniority and the contention that he has absconded from duty is false. In fact, he was provided job on daily wages and therefore is entitled for reinstatement with back wages, continuity of service, attendant benefits and costs.

12. It is argued by the Learned Counsel for the Respondents that Ex.W1 is a self-serving document. According to him from 1-2-83 till 30-9-95 for a period of 12½ years he has worked for 1600 and odd days. There is no other document filed by the Petitioner. From 1-10-95 he has absconded from service and even according to him *vide* Ex. W1 is written on 25-9-2000 that is after a gap of five years. He admitted too that his juniors who were engaged and continuing in service are regularized with employment exchange as per their seniority. Although he denied he absconded from his service but the very conduct is very clear that from 1-10-95 till 7-12-2000 for a long period of five years he sleeps and then all of a sudden he wakes up after five years. That means he was doing some job and on completion of that job or thinking that he may take a chance he has filed this case. Therefore he does not deserve any sympathy nor the rules provide to help him. MW1 Sri K. Sarveshwara Rao who worked at Rajole from 1993 to 1998 as SDOT deposed that the WW1 absconded from their Rajole SDO in October, 1995. That he had given work to other available workers. The erection of poles, digging of trenches is stopped for the last 4 or 5 years. The work was given on contract basis by the top level management. Now due to satellite system the trenches and digging of poles are not required and accordingly manpower is reduced.

That the workman absconded from service on 1-10-95 and not represented either to him or his superior officers for providing job. Till the Petitioner filed this case on 7-12-2000 he has not represented his case either to this SDO office or any other superior authority. MW2 deposed that Ex. M3 shows the seniority list of casual mazdoors as on 31-12-96. That as per Ex. M3 juniors to Petitioner are still working. He therefore prays that he is not entitled to any relief.

13. It is very difficult to say at this point of time and the evidence placed before me that the worker who has self abandoned his service or he was asked not to come from very next day that is 1.10.95.

14. Now what was the reason for him to keep quite for five long years? No doubt, many workers may not know the rules of law but one cannot deny that in the recent past the people are not so naive so as to be completely unaware of their rights. It is found that he is at serial No.88 in the seniority list dated 31-12-96. He has worked from 1-6-85 to 30-9-95 as per Ex. W1, as such it is now found in Ex-M3 which was prepared on 31-12-1996. He deposed and gave three names and some others who are juniors to him and are still working. That he used to go every month and come back on the false promises given by the Respondent. He was not given any notice or pay in lieu there off. He has issued a notice Ex. W1 dated 25-9-2000 having kept quite for almost five years. Admittedly there is no representation by the Petitioner for five long years. Even according to Ex. W1, this letter obviously is written a few months before approaching the Labour Court then at Visakhapatnam.

15. No doubt, several Judgements have been filed by the Learned Counsel for the Petitioner. Specially relied on short notes on recent case APLJ 2002(3) Page 3 wherein his Lordship held that a casual workman also is for protection under Sec.25-F of the I.D. Act. Hence, his Lordship upheld the order of the Tribunal and held that retrenchment is illegal. He also relied on Hon'ble Supreme Court of India Judgement wherein their Lordships held that Sec.25-F was not followed. Hence, they allowed reinstatement with 50% back wages and various other Judgements. In that case the worker was working from June, 1978 and in 1981 he was alleged of misconduct and only after preliminary enquiry he was discharged.

16. Here the only point for consideration is that the workman even according to him worked as casual mazdoor till 30.9.95 as per Ex. W1. He has sent the notice on 25.9.2000 that is after a long gap of five years. There is nothing on record to show that either he approached any other forum or he approached the Respondent for his alleged retrenchment on 30-9-95 and it is a matter of record that some of his juniors have been regularized. Therefore, the only conclusion that can be drawn under the circumstances is that either the Petitioner was gainfully employed

somewhere else or in agriculture or any other avocation and it is only after his juniors got the job he thought of an idea to approach the Court. Therefore, I hold that question of directing the Respondents to take him back in service, back wages, continuity of service etc will not arise. However, the Respondents are directed that in future if they engage any casual labour the Petitioner shall be given preference over others taking his date of appointment as 1-2-83. However, a word of caution that even if his juniors are appointed they will not be retrenched or dismissed in view of this order. This order holds good for in future appointment of casual labour.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 29th Day of April, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

WW1: Sri I. Satyanarayana

Witnesses examined
for the Respondent

MW1: Sri K. Sarveshwar
Rao MW2: Sri M.S.
Prasad

Documents marked for the Petitioner

Ex.W1: Copy of notice sent to management by
WW1

Documents marked for the Respondent

Ex.M1: Copy of attendance of workers from
September, 94 to April, 97

Ex.M2: Copy of muster rolls and acquittance register
from 1.9.94 to April, 1997.

Ex.M3: Copy of seniority list of casual mazdoors
as on 31-12-96.

नई दिल्ली, 19 जून, 2003

का. आ. 2011.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल सी आई डी-32/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-2003 को प्राप्त हुआ था।

[सं. एल-40025/10/2003-आई आर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2011.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-32/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 19-6-2003.

[No. L-40025/10/2003-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, B.SC., LL.B., Presiding Officer

Dated the 29th day of April, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 32/2002

(Old I.D.No. ITID 8/2001 Transferred from Industrial
Tribunal-cum-Labour Court, Visakhapatnam)

BETWEEN:

Sri B. Sanyasi Rao,

S/o Ellaiah,

Mettapalem, Regupalem (P.O.),

Elamanchili (Mandal), Visakhapatnam (District).
.....Petitioner

AND

1. The Chief General Manager,
Telecom. A.P. Circle,
Doorsanchar Bhavan,
Hyderabad. (Now under BSNL)
2. The Telecom. District Manager,
Rajahmundry E.G. Dist.
(Now under BSNL)
3. The Sub-divisional Officer,
Telecom. Department, Razolu,
E.G. District. (Now under BSNL)

.... Respondents

APPEARANCES:

For the Petitioner : Sri P. Sasank, Advocate

For the Respondent : Sri D. Ramesh, Advocate

AWARD

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2. The brief facts stated in the petition are: That the Petitioner was terminated in 1995. He was drawing wages of Rs. 2750 per month at the time of termination. The Petitioner served a demand letter dated 25-9-2000 to the Respondent by registered post acknowledgment due to reconsider the decision of termination of his service and to take him back with service benefits. The Respondent replied that it is not possible to reconsider the decision already taken.

3. That the workman was engaged as casual mazdoor w.e.f. 1-12-84. He approached the Hon'ble High Court on his termination thereupon the Hon'ble High Court directed the Respondent to provide employment as per availability. In spite of personal representations the management not allowed the order. On the contrary, the management has taken juniors to the Petitioner namely, S/Sri B. Nageswara Rao, S.K. Meera Sahib, K. Rama Krishna, V.V. Raghavulu and A. V. Rama Krishna Rao. Then the Petitioner approached the ALC(C) where he was advised to approach the Labour Court u/s 2A(2) of the I.D. Act where the Labour Court authorized for adjudication by the Hon'ble High Court. As the management was transferred with Bharat Sanchar Nigam Limited under whom juniors to the workman are continuing and they may also get confirmed for regularization of the services. Hence, he prays for providing him employment with the past management telecom Department and continuation with present management BSN Ltd. He prays for reinstatement with back wages, continuity of service attendant benefits.

4. A counter was filed stating that the Petitioner is not a workman as defined in I.D. Act and the Respondent is not the management. Any of the Respondent's Telecom Industries cannot be termed as Industry. Therefore, this petition is not maintainable. The Petitioner was taken on Mastar as casual mazdoor on daily wages for various duties like, erection of lines and wires for provisions of new phone connections and maintenance. The workman was never

dismissed nor retrenched but he voluntarily abstained from duty with effect from 1-10-95 without intimation. The allegation that the workman was recruited as casual mazdoor w.e.f. 1-12-84 and terminated from duties w.e.f. 30-9-95 is not correct. His last drawn wages are Rs. 1788 per month but not Rs. 2750 per month. The mazdoors mentioned in the petition are working is not correct. His wages from September, 1994 were Rs. 1630 per month and was increased to Rs. 1788 per month by September, 1995 but not Rs. 2750. Nothing known about the Petitioner from 1-10-95 to the Respondent and he approached the ALC(C) as well as filed this application to cover up his laches. The Petitioner never represented nor approached the management for providing work to him. In the Department, works are being done by the available casual mazdoors only without engaging fresh mazdoors. The SDOT, Rajole also informed that the request of the workman for re-engagement was not accepted due to lack of work. It is submitted that any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement by virtue of government instructions. The Petitioner is not entitled for re-engagement as he absconded beyond the period prescribed. Hence, the petition may be dismissed.

5. The Petitioner Sri B. Sanyasi Rao deposed as WW1. In his chief examination he deposed the facts as mentioned in the petition. He worked at Rajole under SDOT. His juniors are still working. He sent a notice on 25-9-2000 which is Ex. W1. He prays for reinstatement with back wages and continuity of service.

6. In the cross examination he deposed that he was engaged through employment exchange card. He did not file any wage slip of his last drawn wage. He did not know the outcome of Hon'ble High Court or conciliation before ALC(C), Visakhapatnam. It is not true to suggest that he himself absconded from duties with effect from 1-10-95. There is no written proof to prove that he approached the management for re-engagement. It is not true to suggest that his juniors were engaged and regularized due to his absence and according to their seniority. It is not true to suggest that as the Petitioner absconded from service he is not entitled for service benefits and retrenchment compensation. He is not aware of any rules in respect of any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement as per Central Government instructions.

7. Sri K. Sarveshwar Rao, Divisional Engineer, Telecom, Jagityala deposed as MW1. He worked at Rajole during 1993 to June, 1998 as SDOT. Rajole, he knows the Petitioner. The Petitioner also worked in his tenure. He used to do the work of erection, digging and other petty works. The payment usually made according to number of days he worked as per Government of India rates. The Respondent sent the Petitioner to neighbouring SDO. He worked for some time and absconded from Rajole SDO in

October, 1995. Due to satellite system man power also reduced. If at all there is any work of digging etc. the Respondent is giving the work to contract agency by inviting tenders. Hence, there is no fresh appointment of casual labours. Those who are working continuously are transferred to other required places as telephone mechanics and regular mazdoors. The Petitioner did not represented till this case filed on 7-1-2000. As there are no posts of casual workers or temporary NMR basis workers in the Department the Petitioner cannot be reinstated into service. In the cross examination he deposed that he cannot say unless he see the records that as per SDO seniority Petitioner is entitled to have regularization of service.

8. Sri M.S. Prasad, SDO, Telephone, Rajole deposed as MW2. In his chief examination he deposed that he knows the Petitioner has filed the case against the management. The Petitioner in fact absconded from duty without any intimation to the management or leave application. As casual labourers are daily wagers, they do not have any leave accrual. Ex. M1 is attendance of workers from September, 1994 to April, 1997. Ex. M2 shows muster rolls with acquittance register from 1-9-94 to April, 1997. Ex. M3 is the seniority list of casual mazdoors as on 31-12-96. The Petitioner is not entitled to any relief as he was casual mazdoor.

9. In the cross examination he deposed that all the documents relate to Petitioner's service. It is not true to suggest that he was dismissed without notice or pay in lieu thereof, therefore, he is entitled for reinstatement with back wages. As per Ex. M3 Petitioner juniors are still working as they had not abandoned their service. Petitioner did not approach with any request for employment nor gave representation.

10. It is argued by the Learned Counsel for the Petitioner that the Petitioner has joined as man mazdoor with effect from 1-12-84 with the management and his services are disengaged without any notice or information of re-employment with effect from 30-9-95. The workman after being disengaged, whenever he used to approach to provide employment, the management used to provide temporary daily wage employment at the rate of Rs. 59.60 ps. to Rs. 77.50 ps. as per rates up to 1997 April time to time in irregular continuation. The payments were made on vouchers as per the documents provided by the management marked on their behalf as such the nature of 'abscond' does not arise. In fact, the workmen seniority list does not included with such irregular continuation of days of work. His services are engaged under exemption of employment exchange rules as per letter No. 296-21/68 of DG & PNT, New Delhi, dated 23-8-1973. Accordingly the appointment orders were issued by the Department. He got enrolled with employment exchange also at Visakhapatnam. The workman submits that he worked for 2155 days, as such his name ought to be included at after

91 of the seniority list wherein serial No.92 as per the published seniority list of the management marked by them as Ex. M3. At the time of his disengagement he was drawing Rs.2750/- per month. His juniors as per seniority list at serial No.91 namely D. Nageswara Rao worked 2156 days, at serial No.93, Sk. Meera Saheb worked for 2115 days, at serial No.95 K. Rama Krishna worked for 2095 days, at serial No. 135 R. Ramana worked 1105 days, serial No. 136 R. Satyanarayana 1044 days etc. From the date of his disengagement the workman was nowhere employed in anticipation of his continuation with the management like his juniors. It is untrue to say that after the disengagement the Petitioner did not approach. He approached but he was given some daily wage employment some time or the other. That the nature of work is perennial because the duty was to keep maintenance of the cables, erection and trouble shooting under the supervision of the concerned supervisor or engineer. As such the retrenchment of his services are not necessary inspite of establishment and he never absconded from the service as per the version of the management. In a recent decision made in APLJ 2002 (3) page 3 Short notes, in the case of Union of India Vs. P. Mahipal Reddy, W.P. No. 1211 of 1995 wherein Hon'ble Justice L. Narasimha Reddy pronounced his order on 7-8-2002 that "Industrial Disputes Act, 1947 Sec. 2(A) (II) and Sec. 25-F - in proceedings initiated by workman before Industrial Tribunal in a dispute raised under Sec. 2(A) II except reinstatement the Tribunal cannot direct regularization when the incumbent worked for period exceeding 240 days retrenchment without following the provisions of Sec. 25F is illegal." In another case the Chairman Kun Chandra Grama Seva Sahakari Samithi Ltd., Vs./ Judge, Labour Court Bikinar and another in 1999 LLR page 1058 Rajasthan High Court that, "termination of an employee having worked for more than one year without payment of retrenchment compensation will be set aside. The Labour Court awarded reinstatement with full back wages to the workman." In other case MCD Vs. Praveen Kumar Jain and others 1998 (II) LLJ page 674 Supreme Court it is held that, "even a daily rated workman discharged from service without complying Sec. 25-F of I.D. Act will be illegal and the workers will be entitled to reinstatement with 50% back wages." In the case of Eswar Chand and others Vs. Manager Dalmia Dairy Industries 1997 LLR page 366 Rajasthan High Court it is held that, "Retrenchment of workman vide retain his juniors will be illegal entitling him to reinstatement." In the case of Mohan Lal Vs. Bharath Electronics Ltd., 1981 3 SCC page 225 held that, "retrenchment without complying with Sec. 25-F would be void ab-initio. Such action would entitle the workman to a declaration for continuation in service with full back wages." In the case of L. Robert D' Souza Vs. Executive Engineer, Southern Railway 1982 1 SCC page 645 and 1982 SCCL & S 124 that, "termination of service for unauthorized absence from duty amounts to retrenchment and therefore

the service of even a casual or seasonal workman who rendered continuous service for one year or more cannot be terminated on such ground without comply with the requirements of Sec.25-F of I.D. Act." And in the case of Jagajeevan Bhimji Vaja Vs. Union of India 1996 1 LLJ 629 that, "the phrase of a seasonal character has not been defined in Industrial Disputes Act. In order to decide whether a particular establishment is of a seasonal character it has to be seen whether it's entire work is seasonal in character. Where only one of the sections of the Industrial establishment workers in a particular season the answer to the question would depend upon various other factors if in other seasons such an industrial establishment continuous to employ a sizable number of workmen out of the total strength of workmen engaged in the factory is cannot be said to be of a seasonal character."

11. In view of the above rulings he submits that the workman is having unquestionable seniority and the contention that he has absconded from duty is false. In fact he was provided job on daily wages and therefore is entitled for reinstatement with back wages, continuity of service, attendant benefits and costs.

12. It is argued by the Learned Counsel for the Respondents that Ex. W1 is a self-serving document even otherwise it shows that from 1-12-84 to 31-8-86 for 610 days, from 11-3-88 to 22-9-90 for 818 days, from 1-3-91 to 30-4-92 for 363 days and from 1-9-94 to 30-9-95 for 346 days in all. Even according to him from 1-12-84 till 30-9-95 for a period of 12 years he has worked for 2100 and odd days. There is no other document filed by the Petitioner. From 1-10-95 he has absconded from service and even according to him vide Ex. W1 is written on 25-9-2000 that is after a gap of five years. He admitted too that his juniors who were engaged and continuing in service are regularized with employment exchange as per their seniority. Although he denied he absconded from his service but the very conduct is very clear that from 1-10-95 till 7-12-2000 for a long period of five years he sleeps and then all of a sudden he wakes up after five years. That means he was doing some job and on completion of that job or thinking that he may take a chance he has filed this case. Therefore he does not deserve any sympathy nor the rules provide to help him. MW1 Sri K. Sarveshwara Rao who worked at Rajole from 1993 to 1998 as SDOT deposed that the WWI absconded from their Rajole SDO in October, 1995. That he had given work to other available workers. The erection of poles, digging of trenches is stopped for the last 4 or 5 years. The work was given on contract basis by the top level management. Now due to satellite system the trenches and digging of poles are not required and accordingly manpower is reduced. That the workman absconded from service on 1-10-95 and not represented either to him or his superior officers for providing job. Till the Petitioner filed this case

on 7-12-2000 he has not represented his case either to this SDO office or any other superior authority. MW2 deposed that Ex. M. 3 shows the seniority list of casual mazdoors as on 31-12-96. That as per Ex. M. 3 juniors to Petitioner are still working. He therefore prays that he is not entitled to any relief.

13. It is very difficult to say at this point of time and the evidence placed before me that the worker who has self abandoned the service or he was asked not to come from very next day that is 1-10-95.

14. Ex. W1 shows that he has worked from 1984 to 1986, and from 1988 to 1990, and from 1991 to 1992 and again from 1994 to 1995. Now what was the reason for him to keep quite for five long years? No doubt, many workers may not know the rules of law but one cannot deny that in the recent past the people are not so naive so as to be completely unaware of their rights. Admittedly there is no representation by the Petitioner for five long years. Even according to Ex. W1, this letter obviously is written a few months before approaching the Labour Court then at Visakhapatnam.

15. No doubt, several Judgements have been filed by the Learned Counsel for the Petitioner. Specially relied on short notes on recent case APLJ 2002(3) Page 3 wherein his Lordship held that a casual workman also is for protection under Sec. 25-F of the I.D. Act. Hence, his Lordship upheld the order of the Tribunal and held that retrenchment is illegal. He also relied on Hon'ble Supreme Court of India Judgement wherein their Lordships held that Sec. 25-F was not followed. Hence, they allowed reinstatement with 50% back wages and various other Judgements. In that case the worker was working from June, 1978 and in 1981 he was alleged of misconduct and only after preliminary enquiry he was discharged.

16. Here the only point for consideration is that the workman even according to him worked as casual mazdoor from 1-12-84 to 30-9-95 of course, with gaps as shown in Ex. W1. He has sent the notice on 25-9-2000 that is after a long gap of five years. There is nothing on record to show that either he approached any other forum or he approached the Respondent for his alleged retrenchment on 30-9-95 and it is a matter of record that some of his juniors have been regularized. Therefore, the only conclusion that can be drawn under the circumstances is that either the Petitioner was gainfully employed somewhere else or in agriculture or any other avocation and it is only after his juniors got the job he thought of an idea to approach the Court. Therefore, I hold that question of directing the Respondents to take him back in service, back wages, continuity of service etc. will not arise. However, the Respondents are directed that in future if they engage any casual labour the Petitioner shall be given preference over others taking his date of appointment as 1-12-84.

However, a word of caution that even if his juniors are appointed they will not be retrenched or dismissed in view of this order. This order holds good for in future appointment of casual labour.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 29th day of April, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW 1: Sri B. Sanyasi Rao	MW 1: Sri K. Sarveshwar Rao
	MW 2: Sri M.S. Prasad

Documents marked for the Petitioner

Ex. W1: Copy of notice sent to management by WW1

Documents marked for the Respondent

Ex. M1: Copy of attendance of workers from September, 1994 to April, 1997.

Ex. M2: Copy of muster rolls and acquittance register from 1-9-94 to April, 1997.

Ex. M3: Copy of seniority list of casual mazdoors as on 31-12-96.

नई दिल्ली, 19 जून, 2003

का. आ. 2012.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-33/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-40025/9/2003-आई आर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2012.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-33/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-40025/9/2003-IR (DU)]

B. M. DAVID, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****PRESENT:****SHRI E. ISMAIL, B.SC., LL.B., Presiding Officer**

Dated the 29th day of April, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 33/2002(Old I.D.No. ITID 9/2001 Transferred from Industrial
Tribunal cum Labour Court, Visakhapatnam)**BETWEEN:**

Sri A. Satyanarayana,

Marribadda, Elamanchili (Mandal),

Visakhapatnam (District).

.....Petitioner

AND

1. The Chief General Manager,

Telecom A. P. Circle,

Doorsanchar Bhavan, Hyderabad.

(Now under BSNL)

2. The Telecom District Manager,

Rajahmundry E.G. Distt.

(Now under BSNL).

3. The Sub-divisional Officer,

Telecom Department, Razolu,

E.G. District.

(Now under BSNL)

....Respondents

APPEARANCES:

For the Petitioner : Sri P. Sasank, Advocate

For the Respondent : Sri D. Ramesh, Advocate

AWARD

This case I.D. No. ITID 9/2001 is transferred from Industrial Tribunal cum Labour Court, Visakhapatnam in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 33/2002. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts stated in the petition are : That the Petitioner was terminated on 30-9-95. He was drawing wages of Rs.2750/- per month at the time of termination. The Petitioner served a demand letter dated 14-9-2000 to the Respondent by registered post acknowledgement due to reconsider the decision of termination of his service and to take him back with service benefits. The Respondent replied that it is not possible to reconsider the decision already taken.

3. That the workman was engaged as casual mazdoor w.e.f. 30-6-91. He approached the Hon'ble High Court on his termination on 31-3-93 thereupon the Hon'ble High Court directed the Respondent to provide employment as per availability. Inspite of personal representations the management not allowed the order. On the contrary, the management has taken juniors to the Petitioner namely, S/Sri B. Nageswara Rao, S. K. Meera Sahib, K. Rama Krishna, V. V. Raghavulu and A. V. Rama Krishna Rao. Then the Petitioner approached the ALC(C) where he was advised to approach the Labour Court u/s 2A(2) of the I.D. Act where the Labour Court authorized for adjudication by the Hon'ble High Court. As the management was transferred with Bharat Sanchar Nigam Limited under whom juniors to the workman are continuing and they may also get confirmed for regularisation of the services. Hence, he prays for providing him employment with the past management Telecom Department and continuation with present management BSNL Ltd. He prays for reinstatement with back wages, continuity of service attendant benefits.

4. A counter was filed stating that the Petitioner is not a workman as defined in I.D. Act and the Respondent is not the management. Any of the Respondent's Telecom Industries can not be termed as Industry. Therefore this petition is not maintainable. The Petitioner was taken on Mastar as casual mazdoor on daily wages for various duties like, erection of lines and wires for provisions of new phone connections and maintenance. The workman was never dismissed nor retrenched but he voluntarily abstained from duty with effect from 31-3-93 without intimation. The allegation that the workman was recruited as casual mazdoor w.e.f. 1-6-91 and terminated from duties w.e.f. 31-3-93 is not correct. His last drawn wages are Rs. 1788/- per month but not 2750/- per month. Some mazdoors mentioned in the petition are working is not correct. His wages from September, 1994 were Rs. 1630/- per month and was increased to 1788/- per month by September, 1995 but not Rs. 2750/-. Nothing known about the Petitioner from 1-4-93 to the Respondent and he approached the ALC(C) as well as filed this application to cover up his laches. The Petitioner never represented nor approached the management for providing work to him. In the Department, works are being done by the available casual mazdoors only without engaging fresh mazdoors. The SDOT, Razole also informed

that the request of the workman for re-engagement was not accepted due to lack of work. Further, the Petitioner has approached the Hon'ble C.A.T., Hyderabad which gave a direction vide an order OA No. 406/99 dated 15-3-99 directed the Respondent to engage them in work, where there is need for engaging casual labour instead of engaging freshers. It is submitted that any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement by virtue of Government instructions. The Petitioner is not entitled for re-engagement as he absconded beyond the period prescribed. Hence, the petition may be dismissed.

5. The Petitioner Sri A. Satyanarayana deposed as WW1. In his chief examination he deposed the facts as mentioned in the petition. He worked under SDOT, Bobbili and finally he was at Rajole under SDOT. His juniors are still working. He used to approach the office every month for re-engagement. He sent a notice on 14-9-2000 which is Ex. W1. He prays for reinstatement with back wages and continuity of service as his juniors are regularized and they are still working. At the time of termination, he was not given compensation or pay in lieu of notice. He was drawing around Rs. 2750/- at the time of disengagement.

6. In the cross-examination he deposed that he was engaged through employment exchange card. He did not file any wage slip of his last drawn wage. He did not know the outcome of Hon'ble High Court or conciliation before ALC(C), Visakhapatnam. It is not true to suggest that he himself absconded from duties with effect from 1-4-93. There is no written proof to prove that he approached the management for re-engagement. It is not true to suggest that his juniors were engaged and regularized due to his absence and according to their seniority. It is not true to suggest that as the Petitioner absconded from service he is not entitled for service benefits and retrenchment compensation. He is not aware of any rules in respect of any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement as per Central Government instructions.

7. Sri K. Sarveshwar Rao, Divisional Engineer, Telecom, Jagityala deposed as MW1. He worked at Rajole during 1993 to June, 1998 as SDOT, Rajole. He knows the Petitioner. The Petitioner also worked in his tenure. He used to do the work of erection, digging and other petty works. The payment usually made according to number of days he worked as per Government of India rates. The Respondent sent the Petitioner to neighbouring SDO. He worked for some time and absconded from Rajole SDO in October, 1995. Due to satellite system man power also reduced. If at all there is any work of digging etc. the Respondent is giving the work to contract agency by

inviting tenders. Hence, there is no fresh appointment of casual labours. Those who are working continuously are transferred to other required places as telephone mechanics and regular mazdoors. The Petitioner did not represented till this case was filed on 14-12-2000. As there are no posts of casual workers or temporary NMR basis workers in the Department the Petitioner cannot be reinstated into service. In the cross-examination he deposed that he cannot say unless he see the records that as per SDO seniority Petitioner is entitled to have regularization of service.

8. Sri M.S. Prasad, SDO, Telephone, Rajole deposed as MW2. In his chief examination he deposed that he knows the Petitioner has filed the case against the management. The Petitioner in fact absconded from duty without any intimation to the management or leave application. As casual labourers are daily wagers they do not have any leave accrual. Ex. M1 is attendance of workers from September, 1994 to April, 1997. Ex. M2 shows muster rolls with acquittance register from 1-9-94 to April, 1997. Ex. M3 is the seniority list of casual mazdoors as on 31-12-96. The Petitioner is not entitled to any relief as he was casual mazdoor.

9. In the cross-examination he deposed that all the documents relates to Petitioner's service. It is not true to suggest that he was dismissed without notice or pay in lieu thereof, therefore he is entitled for reinstatement with back wages. As per Ex. M3 Petitioner's juniors are still working as they had not abandoned their service. Petitioner did not approach with any request for employment nor gave representation.

10. It is argued by the Learned Counsel for the Petitioner that the Petitioner has joined as man mazdoor with effect from 14-3-85 with the management and his services are disengaged without any notice or information of re-employment. The workman after being disengaged, whenever he used to approach to provide employment, the management used to provide temporary daily wage employment at the rate of Rs. 59-60 ps. to Rs. 77-50 ps. as per rates up to 1997 April time to time in irregular continuation. The payments were made on vouchers as per the documents provided by the management marked on their behalf as such the nature of 'abscond' does not arise. In fact the workmen seniority list does not included with such irregular continuation of days of work. His services are engaged under exemption of employment exchange rules as per letter No. 296-21/68 of DG & PNT New Delhi dated 23-8-1973. Accordingly the appointment orders were issued by the Department. He got enrolled with employment exchange also at Visakhapatnam. The workman submits that he worked for 1642 days, as per the published seniority list of the management marked by them

under serial No.115 as Ex.M3. At the time of his disengagement he was drawing Rs. 2700/- per month. His juniors as per seniority list at serial No. 135 R. Ramana worked 1105 days, serial No. 136 R. Satyanarayana 1044 days etc. From the date of his disengagement the workman was nowhere employed in anticipation of his continuation with the management like his juniors. The workman approached the Hon'ble Central Administrative Tribunal under OA No. 406/99 wherein the Hon'ble C.A.T. passed an order dated 15-3-99 for considering the applicant for continuation of his employment wherein management are the parties. It is untrue to say that after the disengagement the Petitioner did not approach. He approached but he was given some daily wage employment sometime or the other. That the nature of work is perennial because the duty was to keep maintenance of the cables, erection and trouble shooting under the supervision of the concerned supervisor or engineer. As such the retrenchment of his services are not necessary inspite of establishment and he never absconded from the service as per the version of the management. In a recent decision made in APLJ 2002 (3) page 3 Short notes, in the case of Union of India Vs. P. Mahipal Reddy, W.P. No. 1211 of 1995 wherein Hon'ble Justice L. Narasimha Reddy pronounced his order on 7-8-2002 that "Industrial Disputes Act, 1947 Sec.2(A) (II) and Sec.25F—in proceedings initiated by workman before Industrial Tribunal in a dispute raised under Sec.2(A) II except reinstatement the Tribunal cannot direct regularization when the incumbent worked for period exceeding 240 days retrenchment without following the provisions of Sec. 25F is illegal." In another case the Chairman Kun Chandra Grama Seva Sahakari Samithi Ltd. Vs. Judge, Labour Court Bikinar and another in 1999 LLR page 1058 Rajasthan High Court that, "termination of an employee having worked for more than one year without payment of retrenchment compensation will be set aside. The Labour Court awarded reinstatement with full back wages to the workman." In other case MCD Vs. Praveen Kumar Jain and others, 1998 (II) LLJ page 674 Supreme Court it is held that, "even a daily rated workman discharged from service without complying Sec.25F of I.D. Act will be illegal and the workers will be entitled to reinstatement with 50% back wages." In the case of Eswar Chand and others Vs. Manager Dalmia Dairy Industries, 1997 LLR page 366 Rajasthan High Court it is held that, "Retrenchment of workman vide retain his juniors will be illegal entitling him to reinstatement." In the case of Mohan Lal Vs. Bharath Electronics Ltd., 1981 3 SCC page 225 held that, "retrenchment without complying with Sec. 25F would be void ab initio. Such action would entitle the workman to a declaration for continuation in service with full back wages." In the case of L. Robert D' Souza Vs. Executive Engineer, Southern Railway, 1982 I SCC page 645 and 1982

SCCL & S 124 that, "termination of service for unauthorized absence from duty amounts to retrenchment and therefore the service of even a casual or seasonal workman who rendered continuous service for one year or more cannot be terminated on such ground without comply with the requirements of Sec. 25F of I.D. Act." And in the case of Jagajeevan Bhimji Vaja Vs. Union of India, 1996 I LLJ 629 that, "the phrase of a seasonal character has not been defined in Industrial Disputes Act. In order to decide whether a particular establishment is of a seasonal character it has to be seen whether its entire work is seasonal in character. Where only one of the sections of the Industrial establishment workers in a particular season the answer to the question would depend upon various other factors if in other seasons such an industrial establishment continuous to employ a sizable number of workmen out of the total strength of workmen engaged in the factory is cannot be said to be of a seasonal character."

11. In view of the above rulings he submits that the workman is having unquestionable seniority and the contention that he has absconded from duty is false. In fact he was provided job on daily wages and therefore is entitled for reinstatement with back wages, continuity of service, attendant benefits and costs.

12. It is argued by the Learned Counsel for the Respondents that Ex. W1 is a self-serving document. Even according to him from 14-3-85 till 31-3-93 for a period of 8 years he has worked for 1600 and odd days. There is no other document filed by the Petitioner. From 1-4-93 he has absconded from service and even according to him vide Ex. W1 is written on 14-9-2000 that is after a gap of seven years. He admitted too that his juniors who were engaged and continuing in service are regularized with employment exchange as per their seniority. Although he denied he absconded from his service but the very conduct is very clear that from 1997 till 14-12-2000 for a long period of four years he sleeps and then all of a sudden he wakes up after four years. That means he was doing some job and on completion of that job or thinking that he may take a chance he has filed this case. Therefore he does not deserve any sympathy nor the rules provide to help him. MW1 Sri K. Sarveshwara Rao who worked at Rajole from 1993 to 1998 as SDOT deposed that the WW1 absconded from their Rajole SDO in October 1995. That he had given work to other available workers. The erection of poles, digging of trenches is stopped for the last 4 or 5 years. The work was given on contract basis by the top level management. Now due to satellite system the trenches and digging of poles are not required and accordingly manpower is reduced. That the workman absconded from service on 1-10-95 and not represented either to him or his superior officers for

providing job. Till the Petitioner filed this case on 14-12-2000 he has not represented his case either to this SDO office or any other superior authority. MW2 deposed that Ex.M3 shows the seniority list of casual mazdoors as on 31-12-96. That as per Ex.M3 juniors to Petitioner are still working. He therefore prays that he is not entitled to any relief.

13. It is very difficult to say at this point of time and the evidence placed before me that the worker who has self-abandoned the service or he was asked not to come from very next day that is 1-4-93.

14. Although, he worked till December 1996 afterwards he did not attend to work. As per Ex.M2 muster attendance register, it is found that the Petitioner has worked upto December 1996 although he says he worked only upto to 30-9-95 which itself is wrong. If he do not attend work in December 1996 his name would not have found place in Ex.M3 seniority list. Taking his date of appointment as 30-6-91. He was previously terminated also he approached the Hon'ble High Court on 31-3-93 thereupon the Hon'ble High Court directed the Respondent to provide employment as per availability. He approached the Hon'ble Central Administrative Tribunal which by order dated 15-3-99 in OA No.406/99 has already directed where they held, "we feel it proper to direct the Respondents to engage them whenever there is work and there is need for reengaging casual labourers instead of engaging freshers from the open market. No doubt, after their reengagement their cases may be considered in accordance with law for further progress in their cases."

15. Now what was the reason for him to keep quite for four long years? No doubt, many workers may not know the rules of law but one cannot deny that in the recent past the people are not so naive so as to be completely unaware of their rights. Admittedly there is no representation by the Petitioner for seven long years. Even according to Ex.W1, this letter obviously is written a few months before approaching the Labour Court then at Visakhapatnam.

16. No doubt, several judgements have been filed by the Learned Counsel for the Petitioner. Specially relied on short notes on recent case APLJ 2002(3) Page 3 wherein his Lordship held that a casual workman also is for protection under Sec. 25F of the I.D. Act. Hence, his Lordship upheld the order of the Tribunal and held that retrenchment is illegal. He also relied on Hon'ble Supreme Court of India judgement wherein their Lordships held that Sec. 25F was not followed. Hence, they allowed reinstatement with 50% back wages and various other Judgements. In that case the worker was working from June 1978 and in 1981 he has alleged of misconduct and only after preliminary enquiry he was discharged.

17. Here the only point for consideration is that the workman even according to him worked as casual mazdoor from 1-6-91 to 31-3-93 and again till December 1996. He has sent the notice on 14-9-2000 that is after a long gap of four years. There is nothing on record to show that either he approached any other forum or he approached the Respondent for his alleged retrenchment and it is a matter of record that some of his juniors have been regularized. Therefore, the only conclusion that can be drawn under the circumstances is that either the Petitioner was gainfully employed somewhere else or in agriculture or any other avocation and it is only after his juniors got the job he thought of an idea to approach the Court. Therefore, I hold that question of directing the Respondents to take him back in service, back wages, continuity of service etc. will not arise. However, the Respondents are directed that in future if they engage any casual labour the Petitioner shall be given preference over others taking his date of appointment as 1-6-91. However, a word of caution that even if his juniors are appointed they will not be retrenched or dismissed in view of this order. This order holds good for in future appointment of casual labour.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the open Court on this the 29th day of April, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri A.Satyanarayana	MW1: Sri K. Sarveshwara Rao MW2: Sri M.S. Prasad

Documents marked for the Petitioner

- Ex.W1: Copy of notice sent to management by WW1.
Ex.W2: Copy of the order in OA No. 406/99 dt.15-3-99.

Documents marked for the Respondent

- Ex.M1: Copy of attendance of workers from September, 94 to April 97.
Ex.M2: Copy of muster rolls and acquittance register from 1-9-94 to April 1997.
Ex.M3: Copy of seniority list of casual mazdoors as on 31-12-96.

नई दिल्ली, 19 जून, 2003

का. आ. 2013.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी 30/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-40025/8/2003-आई आर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June. 2003

S.O. 2013.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-30/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-40025/8/2003-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 29th day of April, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 30/2002

(Old I.D. No. ITID 6/2001 Transferred from Industrial Tribunal-cum-Labour Court, Visakhapatnam)

BETWEEN:

Sri Venulapudi Sinuachalam,

S/o Samudralu,

Mattapalem, R. Palem (P.O.)

Visakhapatnam (District).

...Petitioner

AND

1. The Chief General Manager,
Telecom. A.P. Circle,
Doorsanchar Bhavan, Hyderabad.
(Now under BSNL).

2. The Telecom. District Manager,
Rajahmundry E.G. Dist.,
(Now under BSNL).

3. The Sub-Divisional Officer,
Telecom. Department, Razolu,
E.G. District.
(Now under BSNL).

... Respondents

APPEARANCES:

For the Petitioner : Sri P. Sasank, Advocate.

For the Respondent : Sri D. Ramesh, Advocate.

AWARD

This case I.D. No. ITID 6/2001 is transferred from Industrial Tribunal-cum-Labour Court, Visakhapatnam in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 30/2002. This is a case taken under Section 2A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts stated in the petition are : That the Petitioner was terminated on 30-9-95. He was drawing wages of Rs. 2750/- per month at the time of termination. The Petitioner served a demand letter dated 25-9-2000 to the Respondent by registered post acknowledgement due to reconsider the decision of termination of his service and to take him back with service benefits. The Respondent replied that it is not possible to reconsider the decision already taken.

3. That the workman was engaged as casual mazdoor w.e.f. 1-2-1983. He approached the Hon'ble High Court on his termination on 30-9-95 thereupon the Hon'ble High Court directed the Respondent to provide employment as per availability. In spite of personal representations the management not allowed the order. On the contrary, the management has taken juniors to the Petitioner namely, S/Sri B. Nageswara Rao, S.K. Mera Sahib, K. Rama Krishna, V. V. Raghavulu and A.V. Rama Krishna Rao. Then the Petitioner approached the ALC(C) where he was advised to approach the Labour Court u/s 2A(2) of the I.D. Act where the Labour Court authorized for adjudication by the Hon'ble High Court. As the management was transferred with Bharat Sanchar Nigam Limited under whom juniors to the workman are continuing and they may also get confirmed for regularization of the services. Hence, he prays for providing him employment with the past management Telecom. Department and continuation with present management BSN Ltd. He prays for reinstatement with back wages, continuity of service attendant benefits.

4. A counter was filed stating that the Petitioner is not a workman as defined in I.D. Act and the Respondent is not the management. Any of the Respondent's Telecom Industries cannot be termed as Industry. Therefore, this petition is not maintainable. The Petitioner was taken on Master as casual mazdoor on daily wages for various duties like, erection of lines and wires for provisions of new phone connections and maintenance. The workman was never dismissed nor retrenched but he voluntarily abstained from duty with effect from 1-10-95 without intimation. The allegation that the workman was recruited as casual mazdoor

w.e.f. 1-2-83 and terminated from duties w.e.f. 30-9-95 is not correct. His last drawn wages are Rs. 1788 per month but not 2750 per month. Five mazdoors mentioned in the petition are working is not correct. His wages from September, 1994 were Rs. 1630 per month and was increased to 1788 per month by September, 1995 but not Rs. 2750. Nothing known about the Petitioner from 1-10-95 to the Respondent and he approached the ALC(C) as well as filed this application to cover up his latches. The Petitioner never represented nor approached the management for providing work to him. In the Department works are being done by the available casual mazdoors only without engaging fresh mazdoors. The SDOT, Razole also informed that the request of the workman for re-engagement was not accepted due to lack of work. It is submitted that any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement by virtue of government instructions. The Petitioner is not entitled for re-engagement as he absconded beyond the period prescribed. Hence, the petition may be dismissed.

5. The Petitioner Sri V. Simhachalam deposed as WW1. In his chief examination he deposed the facts as mentioned in the petition. He worked under SDOT, Samalkot and finally he was at Rajole under SDOT. His juniors are still working. He used to approach the office every month for re-engagement. He sent a notice on 25-9-2000 which is Ex. W1. He prays for reinstatement with back wages and continuity of service as his juniors are regularized and they are still working. At the time of termination he was not given compensation or pay in lieu of notice. He was drawing around Rs. 2750 at the time of disengagement.

6. In the cross examination he deposed that he was engaged through employment exchange card. He did not file any wage slip of his last drawn wage. He did not know the outcome of Hon'ble High Court or conciliation before ALC(C), Visakhapatnam. It is not true to suggest that he himself absconded from duties with effect from 1-10-95. There is no written proof to prove that he approached the management for re-engagement. It is not true to suggest that his juniors were engaged and regularized due to his absence and according to their seniority. It is not true to suggest that even the Petitioner was absconded from service he is not entitled for service benefits and retrenchment compensation. He is not aware of any rules in respect of any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement as per Central Government instructions.

7. Sri K. Sarveshwar Rao, Divisional Engineer, Telecom, Jagityala deposed as MW1. He worked at Rajole during 1993 to June, 1998 as SDOT, Rajole. He knows the Petitioner. The Petitioner also worked in his tenure. He used to do the work of erection, digging and other petty works. The payment usually made according to number of days he worked as per Government of India rates. The Respondent sent the Petitioner to neighbouring SDO.

He worked for some time and absconded from Rajole SDO in October, 1995. Due to satellite system man power also reduced. If at all there is any work of digging etc. the Respondent is giving the work to contract agency by inviting tenders. Hence, there is no fresh appointment of casual labours. Those who are working continuously are transferred to other required places as telephone mechanics and regular mazdoors. The Petitioner did not represented till this case filed on 7-1-2000. As there are no posts of casual workers or temporary NMR basis workers in the Department the Petitioner cannot be reinstated into service. In the cross examination he deposed that he cannot say unless he see the records that as per SDO seniority Petitioner is entitled to have regularization of service.

8. Sri M.S. Prasad, SDO, Telephone, Rajole deposed as MW2. In his chief examination he deposed that he knows the Petitioner has filed the case against the management. The Petitioner in fact absconded from duty without any intimation to the management or leave application. As casual labourers are daily wagers they do not have any leave accrual. Ex. M1 is attendance of workers from September, 1994 to April, 1997. Ex. M2 shows muster rolls with acquittance register from 1-9-94 to April, 1997. Ex. M3 is the seniority list of casual mazdoors as on 31-12-96. The Petitioner is not entitled to any relief as he was casual mazdoor.

9. In the cross examination he deposed that all the documents relates to Petitioner's service. It is not true to suggest that he was dismissed without notice or pay in lieu thereof, therefore, he is entitled for reinstatement with back wages. As per Ex. M3 Petitioner's juniors are still working as they had not abandoned their service. Petitioner did not approach with any request for employment nor gave representation.

10. It is argued by the Learned Counsel for the Petitioner that the Petitioner has joined as man mazdoor with effect from 1-2-83 with the management and his services are disengaged without any notice or information of re-employment with effect from 30-9-95. The workman after being disengaged, whenever he used to approach to provide employment, the management used to provide temporary daily wage employment at the rate of Rs. 59.60 ps. to Rs. 77.50 ps. as per rates up to 1997 April time to time in irregular continuation. The payments were made on vouchers as per the documents provided by the management marked on their behalf as such the nature of 'abscond' does not arise. In fact, the workmen seniority list does not included with such irregular continuation of days of work. His services are engaged under exemption of employment exchange rules as per letter No. 296-21/68 of DG & PNT, New Delhi dated 23-8-1973. Accordingly the appointment orders were issued by the Department. He got enrolled with employment exchange also at Visakhapatnam. The workman submits that he worked for

1696 days as per the published seniority list of the management marked by them under serial No. 112 and 113. At the time of his disengagement he was drawing Rs. 2750 per month. His juniors as per seniority list at serial No. 135 R. Ramana worked 1105 days, serial No. 136 R. Satyanarayana 1044 days etc. From the date of his disengagement the workman was nowhere employed in anticipation of his continuation with the management like his juniors. It is untrue to say that after the disengagement the Petitioner did not approach. He approached but he was given some daily wage employment some time or the other. That the nature of work is perennial because the duty was to keep maintenance of the cables, erection and trouble shooting under the supervision of the concerned supervisor or engineer. As such the retrenchment of his services are not necessary in spite of establishment and he never absconded from the service as per the version of the management. In a recent decision made in APLJ 2002 (3) page 3 Short notes, in the case of Union of India Vs. P. Mahipal Reddy, W.P. No. 1211 of 1995 wherein Hon'ble Justice L. Narasimha Reddy pronounced his order on 7-8-2002 that "Industrial Disputes Act, 1947 Sec. 2(A)(II) and Sec. 25-F—in proceedings initiated by workman before Industrial Tribunal in a dispute raised under Sec. 2(A)(II) except reinstatement the Tribunal cannot direct regularization when the incumbent worked for period exceeding 240 days retrenchment without following the provisions of Sec. 25F is illegal." In another case the Chairman Kun Chandra Grama Seva Sahakari Samithi Ltd., Vs. Judge, Labour Court Bikaner and another in 1999 LLR page 1058 Rajasthan High Court that, "termination of an employee having worked for more than one year without payment of retrenchment compensation will be set aside. The Labour Court awarded reinstatement with full back wages to the workman." In other case MCD Vs. Praveen Kumar Jain and others 1998 (II) LLJ page 674 Supreme Court it is held that, "even a daily rated workman discharged from service without complying Sec. 25-F of I.D. Act will be illegal and the workers will be entitled to reinstatement with 50% back wages." In the case of Eswar Chand and others Vs. Manager Dalmia Dairy Industries 1997 LLR page 366 Rajasthan High Court it is held that, "Retrenchment of workman vide retain his juniors will be illegal entitling him to reinstatement." In the case of Mohan Lal Vs. Bharath Electronics Ltd., 1981 3 SCC page 225 held that, "retrenchment without complying with Sec. 25-F would be void ab-initio. Such action would entitle the workman to a declaration for continuation in service with full back wages." In the case of L. Robert D'Souza Vs. Executive Engineer, Southern Railway 1982 1 SCC page 645 and 1982 SCC L & S 124 that, "termination of service for unauthorized absence from duty amounts to retrenchment and therefore the service of even a casual or seasonal workman who rendered continuous service for one year or more cannot be terminated on such ground without comply with the requirements of Sec. 25-F of I.D. Act." And in the case of

Jagajeevan Bhimji Vaja Vs. Union of India 1996 1 LLJ 629 that, "the phrase of a seasonal character has not been defined in Industrial Disputes Act. In order to decide whether a particular establishment is of a seasonal character it has to be seen whether its entire work is seasonal in character. Where only one of the sections of the Industrial establishment workers in a particular season the answer to the question would depend upon various other factors if in other seasons such an industrial establishment continuous to employ a sizable number of workmen out of the total strength of workmen engaged in the factory is cannot be said to be of a seasonal character."

11. In view of the above rulings he submits that the workman is having unquestionable seniority and the contention that he has absconded from duty is false. In fact, he was provided job on daily wages and therefore is entitled for reinstatement with back wages, continuity of service, attendant benefit and costs.

12. It is argued by the Learned Counsel for the Respondents that Ex. W1 is a self-serving document even otherwise it shows that from 1-2-83 to 10-4-84 he worked for 322 days and there is a gap of four years and again from 1-1-88 to 30-4-90 he has worked for 698 days and from 1st March, 91 to 30th April, 92 for 168 days, from 1-9-92 to 31-12-92, for 120 days, from 1-9-94 to 30-9-95 378 days in all. Even according to him from 1-2-83 till 30-9-95 for a period of 12½ years he has worked for 1600 and odd days. There is no other document filed by the Petitioner. From 1-10-95 he has absconded from service and even according to him vide Ex. W1 is written on 25-9-2000 that is after a gap of five years. He admitted too that his juniors who were engaged and continuing in service are regularized with employment exchange as per their seniority. Although he denied he absconded from his service but the very conduct is very clear that from 1-10-95 till 25-3-2000 for a long period of five years he sleeps and then all of a sudden he wakes up after five years. That means he was doing some job and on completion of that job or thinking that he may take a chance he has filed this case. Therefore, he does not deserve any sympathy nor the rules provide to help him. MW1 Sri K. Sarveshwara Rao who worked at Rajole from 1993 to 1998 as SDOT deposed that the WW1 absconded from their Rajole SDO in October, 1995. That he had given work to other available workers. The erection of poles, digging of trenches is stopped for the last 4 or 5 years. The work was given on contract basis by the top level management. Now due to satellite system the trenches and digging of poles are not required and accordingly manpower is reduced that the workman absconded from service on 1-10-95 and not represented either to him or his superior officers for providing job. Till the Petitioner filed this case on 1-7-2000 he has not represented his case either to this SDO office or any other superior authority. MW2 deposed that Ex. M3 shows the seniority list of casual mazdoors as on 31-12-96. That as per Ex. M3 juniors to Petitioner are still working. He therefore prays that he is not entitled to any relief.

13. It is very difficult to say at this point of time and the evidence placed before me that the worker who has abandoned the service or he was asked not to come from very next day that is 1-10-95.

14. Ex. W1 shows that he has worked from 1983 to 1984, 1988 to 1990 and again from 1991 to 30-9-95. Now what was the reason for him to keep quite for five long years? No doubt, many workers may not know the rules of law but one cannot deny that in the recent past the people are not so naive so as to be completely unaware of their rights. Admittedly there is no representation by the Petitioner for five long years. Even according to Ex. W1 and this letter obviously is written a few months before approaching the Labour Court then at Visakhapatnam.

15. No doubt, several Judgements have been filed by the Learned Counsel for the Petitioner. Specially relied on short notes on recent case APLJ 2002(3) Page 3 wherein his Lordship held that a casual workman also is for protection Under Sec. 25-F of the I. D. Act. Hence, his Lordship upheld the order of the Tribunal and held that retrenchment is illegal. He also relied on Hon'ble Supreme Court of India Judgement wherein their Lordships held that Sec. 25-F was not followed. Hence, they allowed reinstatement with 50% back wages and various other Judgements. In that case the worker was working from June, 1978 and in 1981 he was alleged of misconduct and only after preliminary enquiry he was discharged.

16. Here the only point for consideration is that the workman even according to him worked as casual mazdoor from 1-2-83 to 30-9-95 of course, with gaps as shown in Ex. W1. He has sent the notice on 25-9-2000 that is after a long gap of five years. There is nothing on record to show that either he approached any other forum or he approached the Respondent for his alleged retrenchment on 30-9-95 and it is a matter of record that some of his juniors have been regularized. Therefore, the only conclusion that can be drawn under the circumstances is that either the Petitioner was gainfully employed somewhere else or in agriculture or any other avocation and it is only after his juniors got the job he thought of an idea to approach the Court. Therefore, I hold that question of directing the Respondents to take him back in service, back wages, continuity of service etc. will not arise. However, the Respondents are directed that in future if they engage any casual labour the Petitioner shall be given preference over others taking his date of appointment as 1-2-83. However, a word of caution that even if his juniors are appointed they will not be retrenched or dismissed in view of this order. This order holds good for in future appointment of casual labour.

Award passed accordingly. Transmit.

Dictated to Kun. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 29th day of April, 2003.

E. ISMAIL, Presiding Officer

APPENDIX OF EVIDENCE

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri V. Simhachalam	MW1: Sri K. Sarveshwar Rao
	MW2: Sri M. S. Prasad

Documents marked for the Petitioner

Ex. W1: Copy of notice sent to management by WW1

Documents marked for the Respondent

Ex. M1: Copy of attendance of workers from September 1994 to April, 1997.

Ex. M2: Copy of muster rolls and acquittance register from 1-9-94 to April 1997.

Ex. M3: Copy of seniority list of casual mazdoors as on 31-12-96.

नई दिल्ली, 19 जून, 2003

का. आ. 2014.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (हैदराबाद के पंचाट) सदस्य संख्या एल सी आई डी (110/2002-को) प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-40025/7/2003-आई आर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2014.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-110/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 19-06-03.

[No. L-40025/7/2003-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT AT HYDERABAD

PRESENT:

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 29th day of April, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 110/2002

BETWEEN:

Sri S. Trimurthulu,
S/o Appalakonda, Ramabadrapuram(V),
Regupalem post,
Elamanchili (Mandal)
Visakhapatnam (District).

.....Petitioner

AND

1. The Chief General Manager,
Telecom A.P. Circle,
Nav Bharat Sanchar Nigam Ltd.,
Doorsanchar Bhavan, Hyderabad.
2. The Telecom District Manager,
(Now under BSNL)
Rajahmundry E.G. Dist.
3. The Sub-divisional Officer,
Telecom Department,
(Now under BSNL)
Razole, E.G. District. ... Respondents

APPEARANCES :

For the Petitioner : Sri P. Sasank, Advocate
For the Respondent : Sri D. Ramesh, Advocate

AWARD

This is a case taken under Sec.2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts stated in the petition are: That the Petitioner was working from 11-3-88. He was drawing wages of Rs.2750/- per month at the time of termination. The Petitioner served a demand letter dated 27-11-2000 to the Respondent by registered post acknowledgement due to reconsider the decision of termination of his service and to take him back with service benefits. The Respondent replied that it is not possible to reconsider the decision already taken.

3. That the workman was engaged as casual mazdoor w.e.f. 11.3.88. He approached the Hon'ble High Court on his termination dated 1-3-97 thereupon the Hon'ble High Court directed the Respondent to provide employment as per availability. In spite of personal representations the management not allowed the order. On the contrary, the management has taken juniors. The workman worked for 1126 days as per seniority list of the management. But his juniors S/Sri R. Ramana, R. Satyanarayana, and Ruthala Ramana are still continuing. Then the Petitioner approached the ALC(C) where he was advised to approach the Labour Court u/s. 2A(2) of the I.D. Act where the Labour Court authorized for adjudication by the Hon'ble High Court. As the management was transferred with Bharat Sanchar Nigam Limited under whom juniors to the workman are continuing and they may also get confirmed for regularization of the services. Hence, he prays for providing him employment with the past management Telecom Department and continuation with present management BSN Ltd. He prays for reinstatement with back wages, continuity of service attendant benefits.

4. A counter was filed stating that the Petitioner is not a workman as defined in I.D. Act and the Respondent

is not the management. Any of the Respondent's Telecom Industries can not be termed as Industry. Therefore this petition is not maintainable. The Petitioner was taken on Mastar as casual mazdoor on daily wages for various duties like, erection of lines and wires for provisions of new phone connections and maintenance w.e.f. 1-9-94. The allegation that the workman has appreciated as casual mazdoor with effect from 11-3-88 and terminated from service is not correct. The workman was never dismissed nor retrenched but he voluntarily abstained from duty with effect from 1-3-97 without intimation. His last drawn wages are Rs. 1602/- per month but not 2755/- per month. No fresh candidates have been taken in the Sub-Division as there is no workload even after the absence of the Petitioner. Nothing known about the Petitioner from 1-3-97 to the Respondent and he approached the ALC (C) as well as filed this application to cover up his laches. The Petitioner never represented nor approached the management for providing work to him. In the Department works are being done by the available casual mazdoors only without engaging fresh mazdoors. The SDOT, Rajole also informed that the request of the workman for re-engagement was not accepted due to lack of work. It is submitted that any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement by virtue of government instructions. The Petitioner is not entitled for re-engagement as he absconded beyond the period prescribed. Hence, the petition may be dismissed.

5. The Petitioner Sri S. Thrimurthulu deposed as WW1. In his chief examination he deposed the facts as mentioned in the petition. He worked under SDOT, Rajole and finally he was at Machilipatnam under SDOT. He worked for 1126 days as per seniority list of the management. His juniors are still working. He used to approach the office every month for reengagement. His service certificate w.e.f. 11-3-88 is Ex. W1. Statement of working particulars issued by AE, Telecom, REP, Hyderabad for the period upto 24-6-90 dated 24-9-90 is Ex. W. 2. Circular issued by Sub-Divisional Officer, Telecom, Machilipatnam for the period 9-7-90 to 22-9-90 is marked as Ex. W3. Certificate issued by SDO, Telecom, Rajole is Ex. W4. Representation to Respondents dated 27-11-2000 is Ex. W5. Xerox copy of Transfer certificate is Ex. W6. Xerox copy of employment requisition certificate is Ex. W7. He prays for reinstatement with back wages and continuity of service as his juniors are regularized and they are still working. At the time of termination he was not given compensation or pay in lieu of notice. He was drawing around Rs. 2750/- at the time of disengagement.

6. In the cross examination he deposed that he was engaged through employment exchange card. He did not file any wage slip of his last drawn wage. It is not true to suggest that he himself absconded from duties with effect from 1-3-97. There is no written proof to prove that he approached the management for re-engagement. It is not true to suggest that his juniors were engaged and

regularized due to his absence and according to their seniority. It is not true to suggest that as the Petitioner absconded from service he is not entitled for service benefits and retrenchment compensation. He is not aware of any rules in respect of any mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement as per Central Government instructions.

7. Sri K. Sarveshwar Rao, Divisional Engineer, Telecom, Jagityala deposed as MW1. He worked at Rajole during 1993 to June, 1998 as SDOT, Rajole. He knows the Petitioner. The Petitioner also worked in his tenure. He used to do the work of erection, digging and other petty works. The payment usually made according to number of days he worked as per Government of India rates. The Respondent sent the Petitioner to neighboring SDO. He worked for some time and absconded from Rajole SDO in October, 1995. Due to satellite system man power also reduced. If at all there is any work of digging etc. the Respondent is giving the work to contract agency by inviting tenders. Hence, there is no fresh appointment of casual labours. Those who are working continuously are transferred to other required places a telephone mechanics and regular mazdoors. The Petitioner did not represent till this case filed on 29-5-2002. As there are no posts of casual workers or temporary NMR basis workers in the Department the Petitioner cannot be reinstated into service. In the cross examination he deposed that he cannot say unless he see the records that as per SDO seniority Petitioner is entitled to have regularization of service.

8. Sri M.S. Prasad, SDO, Telephone, Rajole deposed as MW2. In his chief examination he deposed that he knows the Petitioner has filed the case against the management. The Petitioner in fact absconded from duty without any intimation to the management or leave application. As casual labourers are daily wagers they do not have any leave accrual. Ex. M1 is attendance of workers from September, 1994 to April, 1997. Ex. M2 shows muster rolls with acquittance register from 1-9-94 to April, 1997. Ex. M3 is the seniority list of casual mazdoors as on 31-12-96. The Petitioner is not entitled to any relief as he was casual mazdoor.

9. In the cross examination he deposed that all the documents relates to Petitioner's service. It is not true to suggest that he was dismissed without notice or pay in lieu thereof, therefore he is entitled for reinstatement with back wages. As per Ex. M3 Petitioner's juniors are still working as they had not abandoned their service. Petitioner did not approach with any request for employment nor gave representation.

10. It is argued by the Learned Counsel for the Petitioner that the Petitioner has joined as man mazdoor with effect from 11-3-88 with the management and his services are disengaged without any notice or information of re-employment. The workman after being disengaged, whenever he used to approach to provide employment,

the management used to provide temporary daily wage employment at the rate of Rs. 59-60 ps. to Rs. 77-50 ps. as per rates up to 1997 April time to time in irregular continuation. The payments were made on vouchers as per the documents provided by the management marked on their behalf as such the nature of 'abscond' does not arise. In fact the workmen seniority list does not included with such irregular continuation of days of work. His services are engaged under exemption of employment exchange rules as per letter No. 296-21/68 of DG & PNT New Delhi dated 23-8-1973. Accordingly the appointment orders were issued by the Department. He got enrolled with employment exchange also at Visakhapatnam. The workman submits that he worked for 1126 days as per the published seniority list of the management marked by them under serial No. 133. At the time of his disengagement he was drawing Rs. 2750/- per month. His juniors as per seniority list at serial No. 135 R. Ramanu worked 1105 days, serial No. 136 R. Satyanarayana 1044 days etc. From the date of his disengagement the workman was nowhere employed in anticipation of his continuation with the management like his juniors. It is untrue to say that after the disengagement the Petitioner did not approach. He approached but he was given some daily wage employment some time or the other. That the nature of work is perennial because the duty was to keep maintenance of the cables, erection and trouble shooting under the supervision of the concerned supervisor or engineer. As such the retrenchment of his services are not necessary inspite of establishment and he never absconded from the service as per the version of the management. In a recent decision made in APLJ 2002 (3) page 3 Short notes, in the case of Union of India Vs. P. Mahipal Reddy, W.P. No. 1211 of 1995 wherein Hon'ble Justice L. Narasimha Reddy pronounced his order on 7-8-2002 that "Industrial Disputes Act 1947 Sec. 2(A) (II) and Sec. 25-F—in proceedings initiated by workman before Industrial Tribunal in a dispute raised under Sec. 2(A) II except reinstatement the Tribunal cannot direct regularization when the incumbent worked for period exceeding 240 days retrenchment without following the provisions of Sec. 25F is illegal." In another case the Chairman Kun Chandra Grama Seva Sahakari Samithi Ltd., Vs. Judge, Labour Court Bikanar and another in 1999 LLR page 1058 Rajasthan High Court that, "termination of an employee having worked for more than one year without payment of retrenchment compensation will be set aside. The Labour Court awarded reinstatement with full back wages to the workman." In other case MCD Vs. Praveen Kumar Jain and others 1998 (II) LLJ page 674 Supreme Court it is held that, "even a daily rated workman discharged from service without complying Sec. 25-F of I.D. Act will be illegal and the workers will be entitled to reinstatement with 50% back wages." In the case of Eswar Chand and others Vs. Manager Dalmia Dairy Industries 1997 LLR page 366 Rajasthan High Court it is held that, "Retrenchment of workman vide retain his juniors will be illegal entitling him to reinstatement." In the case of Mohan Lal Vs. Bharath

Electronics Ltd., 1981 3 SCC page 225 held that, "retrenchment without complying with Sec. 25-F would be void ab-initio. Such action would entitle the workman to a declaration for continuation in service with full back wages." In the case of L. Robert D' Souza Vs. Executive Engineer, Southern Railway 1982 1 SCC page 645 and 1982 SCCL & S 124 that, "termination of service for unauthorized absence from duty amounts to retrenchment and therefore the service of even a casual or seasonal workman who rendered continuous service for one year or more cannot be terminated on such ground without comply with the requirements of Sec. 25-F of I.D. Act." And in the case of Jagajeevan Bhimji Vaja Vs. Union of India 1996 1 LLJ 629 that, "the phrase of a seasonal character has not been defined in Industrial Disputes Act. In order to decide whether a particular establishment is of a seasonal character it has to be seen whether it's entire work is seasonal in character. Where only one of the sections of the Industrial establishment workers in a particular season the answer to the question would depend upon various other factors if in other seasons such an industrial establishment continuous to employ a sizable number of workmen out of the total strength of workmen engaged in the factory it cannot be said to be of a seasonal character."

11. In view of the above ruling he submits that the workman is having unquestionable seniority and the contention that he has absconded from duty is false. In fact he was provided job on daily wages and therefore is entitled for reinstatement with back wages, continuity of service, attendant benefits and costs.

12. It is argued by the Learned Counsel for the Respondents that from 11-3-88 to 1-3-97 he worked for 1126 days in all. Even according to him from 11-3-88 to 1-3-97 for a period of 9 years he has worked for 1126 days. From 1-3-97 he has absconded from service and even according to him Ex. W5 is written on 27-11-2000 that is after a gap of three years. He admitted too that his juniors who were engaged and continuing in service are regularized with employment exchange as per their seniority. Although he denied he absconded from his service but the very conduct is very clear that from 1-3-97 till 29-5-2002 for a long period of five years he sleeps and then all of a sudden he wakes up after five years. That means he was doing some job and on completion of that job or thinking that he may take a chance he has filed this case. Therefore, he does not deserve any sympathy nor the rules provide to help him. MW1 Sri K. Sarveshwara Rao who worked at Rajole from 1993 to 1998 as SDOT deposed that the WW1 absconded from their Rajole SDO from 1-3-97. That he had given work to other available workers. The erection of poles, digging of trenches is stopped for the last 4 or 5 years. The work was given on contract basis by the top level management. Now due to satellite system the trenches and digging of poles are not required and accordingly manpower is reduced. That the workman absconded from service on 1-3-97 and not represented either to him or his superior

officers for providing job. Till the Petitioner filed this case on 29-5-2002 he has not represented his case either to this SDO office or any other superior authority. MW2 deposed that Ex. M3 shows the seniority list of casual mazdoors as on 31-12-96. That as per Ex. M3 juniors to Petitioner are still working. He therefore prays that he is not entitled to any relief.

13. It is very difficult to say at this point of time and the evidence placed before me that the worker who has self abandoned the service or he was asked not to come from very next day that is 1-3-97.

14. Ex. W1 is the service certificate issued by Divisional Engineer, Telecom, Secunderabad on 8-6-93 that the Petitioner is engaged for construction work as casual mazdoor. Ex. W4 is the certificate issued by SDO, Telecommunication, Rajole that from 2-7-96 to 28-2-97 the Petitioner has worked for 223 days. It may be noted that the Petitioner has worked up to 28-2-97. Not only that he has gone to the SDO, Rajole on 14-12-97 and taken Ex. W4 the service certificate. He has not given any protest letter or any request for reengagement and actually he himself says that he worked up to 31-12-96. Whereas the certificate itself shows that he has worked in January, 1997 for 30 days as well as in February, 1997 20 days. So, he himself is not aware. So his contention that he was retrenched from December, 96 is not correct. Because in the chief examination also he says that he worked upto 28-2-97. His juniors have been regularized. He kept quite from 1997 till 27-11-2000. That is for a period of almost four years. Ex. W5 shows that he has worked from 11-3-88 to 31-12-96. Now what was the reason for him to keep quite for four long years? No doubt, many workers may not know the rules of law but one cannot deny that in the recent past the people are not so naive so as to be completely unaware of their rights. Admittedly there is no representation by the Petitioner for five long years. Even according to Ex. W5, this letter obviously is written a few months before approaching the Labour Court then at Visakhapatnam.

15. No doubt, several Judgements have been filed by the Learned Counsel for the Petitioner. Specially relied on short notes on recent case APLJ 2002(3) Page 3 wherein his Lordship held that a casual workman also is for protection under Sec. 25-F of the I.D. Act. Hence, his Lordship upheld the order of the Tribunal and held that retrenchment is illegal. He also relied on Hon'ble Supreme Court of India Judgement wherein their Lordships held that Sec. 25-F was not followed. Hence, they allowed reinstatement with 50% back wages and various other Judgements. In that case the worker was working from June, 1978 and in 1981 he has alleged to conduct misconduct and only after preliminary enquiry he was discharged.

16. Here the only point for consideration is that the workman worked as casual mazdoor from 11-3-88 to 1-3-97 as per muster rolls register. He has sent the notice on 27-11-2000 that is after a long gap of 3-1/2 years. There is

nothing on record to show that either he approached any other forum or he approached the Respondent for his alleged retrenchment and it is a matter of record that some of his juniors have been regularized. Therefore, the only conclusion that can be drawn under the circumstances is that either the Petitioner was gainfully employed somewhere else or in agriculture or any other avocation and it is only after his juniors got the job he thought of an idea to approach the Court. Therefore, I hold that question of directing the Respondents to take him back in service, back wages, continuity of service etc. will not arise. However, the Respondents are directed that in future if they engage any casual labour the Petitioner shall be given preference over others taking his date of appointment as 11-3-88. However, a word of caution that even if his juniors are appointed they will not be retrenched or dismissed in view of this order. This order holds good for in future appointment of casual labour.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 29th day of April, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri S. Thirumurthulu	MW1: Sri K. Sarveshwar Rao
	MW2: Sri M.S. Prasad

Documents marked for the Petitioner

EX.W1: Service certificate dt. 8-6-93
 Ex.W2: Statement of working particulars issued by AE, Telecom.
 Ex.W3: Copy of particulars issued by AE, Telecom, Machilipatnam
 Ex.W4: Copy of certificate issued by SDO, Telecom, Rajole.
 Ex.W5: Copy of notice sent to management by WW1 dt. 27-11-2000.
 Ex.W6: Copy of transfer certificate containing date of birth of WW1.
 Ex.W7: Copy of employment registration certificate.

Documents marked for the Respondent

Ex.M1: Copy of attendance of workers from September, 94 to April, 97.
 Ex.M2: Copy of muster rolls and acquittance register from 1-9-94 to April, 1997.
 Ex.M3: Copy of seniority list of casual mazdoors as on 31-12-96.

नई दिल्ली, 19 जून, 2003

का. आ. 2015.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट सदस्य संख्या एल सी आई डी 58/2002 को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-40025/6/2003-आई आर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2015.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-58/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 19-06-03.

[No. L-40025/6/2003-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
 HYDERABAD

PRESENT:

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 29th day of April, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 58/2002
 (Old I.D.No. ITID 36/2001 Transferred from Industrial Tribunal cum Labour Court, Visakhapatnam)

BETWEEN:

Sri L. Satyanarayana,
 S/o Lakshmanalu,
 Rukuminipuram (Village),
 Regupalem (P.O.),
 Elamanchili (Mandal)
 Visakhapatnam (District).

.....Petitioner

AND

1. The Chief General Manager,
 Telecom A.P. Circle,
 Doorsanchar Bhavan, Hyderabad.
 (Now under BSNL)
2. The Telecom District Manager,
 Rajahmundry E.G. Dist.
 (Now under BSNL)
3. The Sub-divisional Officer,
 Telecom Department, Razolu,
 E.G. District. (Now under BSNL) ... Respondents

APPEARANCES:

For the Petitioner : Sri P. Sasank, Advocate.
 For the Respondent : Sri D. Ramesh, Advocate.

AWARD

This case I.D. No. ITID 36/2001 is transferred from Industrial Tribunal cum Labour Court, Visakhapatnam in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 58/2002. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts stated in the petition are : That the Petitioner was working from 1-6-84. He was drawing wages of Rs. 2750/- per month at the time of termination dated 30-6-1996. The Petitioner served a demand letter to the Respondent by registered post acknowledgement due to reconsider the decision of termination of his service and to take him back with service benefits. The Respondent replied that it is not possible to reconsider the decision already taken.

3. That the workman was engaged as casual mazdoor w.e.f. 1-2-83. He approached the Hon'ble High Court on his termination on 30-9-95 thereupon the Hon'ble High Court directed the Respondent to provide employment as per availability. In spite of personal representations the management not allowed the order. On the contrary, the management has taken juniors. Then the Petitioner approached the ALC(C) where he was advised to approach the Labour Court u/s. 2A(2) of the I.D. Act where the Labour Court authorized for adjudication by the Hon'ble High Court. As the management was transferred with Bharat Sanchar Nigam Limited under whom juniors to the workman are continuing and they may also get confirmed for regularization of the services. Hence, he prays for providing him employment with the past management Telecom Department and continuation with present management BSN Ltd. He prays for reinstatement with back wages, continuity of service attendant benefits.

4. A counter was filed stating that the Petitioner is not a workman as defined in I.D. Act and the Respondent is not the management. Any of the Respondent's Telecom Industries can not be termed as Industry. Therefore this petition is not maintainable. The Petitioner was taken on Mastar as casual mazdoor on daily wages for various duties like, erection of lines and wires for provisions of new phone connections and maintenance. The workman was never dismissed nor retrenched but he voluntarily abstained from duty with effect from 1-7-96 without intimation. The allegation that the workman was recruited as casual mazdoor w.e.f. 1-6-84 and terminated from duties w.e.f. 30-6-96 is not

correct. His last drawn wages are Rs. 1788/- per month but not 2750/- per month. The mazdoors mentioned in the petition are working is not correct. Nothing known about the Petitioner from 1-7-96 to the Respondent and he approached the ALC(C) as well as filed this application to cover up his latches. The Petitioner never represented nor approached the management for providing work to him. In the Department works are being done by the available casual mazdoors only without engaging fresh mazdoors. The SDOT, Rajole also informed that the request of the workman for re-engagement was not accepted due to lack of work. Further the Petitioner has approached the Hon'ble C.A.T., Hyderabad vide OA No. 406/99. It is true to say that order No. 406/99 dated 15-3-99 directed the Respondents to engage them in work, where is need for engaging casual labour instead of engaging freshers. It is submitted that any mazdoor who has absconded from duty for a continuous period of 15 days is not liable for re-engagement by virtue of government instructions. The Petitioner is not entitled for re-engagement as he absconded beyond the period prescribed. Hence, the petition may be dismissed.

5. The Petitioner Sri L. Satyanarayana deposed as WW1. In his chief examination he deposed the facts as mentioned in the petition. He worked under SDOT, Vijayanagaram and finally he was at Rajole under SDOT. His juniors are still working. He used to approach the office every month for re-engagement. He sent a notice on 25-9-2000 which is Ex. W1. Ex. W2 pertain to East Godavari district. Ex. W3 is conferring temporary status to casual mazdoors. Ex. W3 dated 23-8-2000 pertains to Visakhapatnam. He prays for reinstatement with back wages and continuity of service as his juniors are regularized and they are still working. At the time of termination he was not given compensation or pay in lieu of notice. He was drawing around Rs. 2750/- at the time of disengagement.

6. In the cross examination he deposed that he was engaged through employment exchange card. He did not file any wage slip of his last drawn wage. He did not know the outcome of Hon'ble High Court or conciliation before ALC(C), Visakhapatnam. It is not true to suggest that he himself absconded from duties with effect from 1-7-96. There is no written proof to prove that he approached the management for re-engagement. It is not true to suggest that his juniors were engaged and regularized due to his absence and according to their seniority. It is not true to suggest that as the Petitioner absconded from service he is not entitled for service benefits and retrenchment compensation. He is not aware of any rules in respect of any Mazdoor who has absconded from duty for a continuous period of 15 days is not eligible for re-engagement as per central government instructions.

7. Sri K. Sarveshwar Rao, Divisional Engineer, Telecom, Jagityala deposed as MW1. He worked at Rajole

during 1993 to June, 1998 as SDOT. Rajole. He knows the Petitioner. The Petitioner also worked in his tenure. He used to do the work of erection, digging and other petty works. The payment usually made according to number of days he worked as per Government of India rates. The Respondent sent the Petitioner to neighboring SDO. He worked for some time and absconded from Rajole SDO in October, 1995. Due to satellite system man power also reduced. If at all there is any work of digging etc. the Respondent is giving the work to contract agency by inviting tenders. Hence, there is no fresh appointment of casual labours. Those who are working continuously are transferred to other required places a telephone mechanics and regular mazdoors. The Petitioner did not represented till this case filed on 20-3-2001. As there are no posts of casual workers or temporary NMR basis workers in the Department the Petitioner cannot be reinstated into service. In the cross examination he deposed that he cannot say unless he see the records that as per SDO seniority Petitioner is entitled to have regularization of service.

8. Sri M. S. Prasad, SDO, Telephone, Rajole deposed as MW2. In his chief examination he deposed that he knows the Petitioner has filed the case against the management. The Petitioner in fact absconded from duty without any intimation to the management or leave application. As casual labourers are daily wagers they do not have any leave accrual. Ex.M1 is attendance of workers from September, 1994 to April, 1997. Ex.M2 shows muster rolls with acquittance register from 1-9-94 to April, 1997. Ex. M3 is the seniority list of casual mazdoors as on 31-12-96. The Petitioner is not entitled to any relief as he was casual mazdoor.

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10. It is argued by the Learned Counsel for the Petitioner that the Petitioner has joined as man mazdoor with effect from 1-6-84 with the management and his services are disengaged without any notice or information of re-employment w. e.f. 30-6-96. The workman after being disengaged, whenever he used to approach to provide employment, the management used to provide temporary daily wage employment at the rate of Rs. 59-60 ps. to Rs. 77-50 ps. as per rates up to 1997 April time to time in irregular continuation. The payments were made on vouchers as per the documents provided by the management marked on their behalf as such the nature of

'abscond' does not arise. In fact the workmen seniority list does not included with such irregular continuation of days of work. His services are engaged under exemption of employment exchange rules as per letter No. 296-21/68 of DG & PNT New Delhi dated 23-8-1973. Accordingly the appointment orders were issued by the Department. He got enrolled with employment exchange also at Visakhapatnam. The workman submits that he worked for 1576 days, as per the published seniority list of the management marked by them under serial No. 118 as per Ex. M3. At the time of his disengagement he was drawing Rs. 2750/- per month. His juniors as per seniority list at serial No. 135 R. Ramana worked 1105 days, serial No. 136 R. Satyanarayana 1044 days etc. From the date of his disengagement the workman was nowhere employed in anticipation of his continuation with the management like his juniors. The workman approached the Hon'ble Central Administrative Tribunal under OA No. 406/99 wherein the Hon'ble C.A.T. passed an order dated 15-3-99 for considering he applicant for continuation of his employment wherein the management are the parties. It is untrue to say that after the disengagement the Petitioner did not approach. He approached but he was given some daily wage employment some time or the other. That the nature of work is perennial because the duty was to keep maintenance of the cables, erection and trouble shooting under the supervision of the concerned supervisor or engineer. As such the retrenchment of his services are not necessary inspite of establishment and he never absconded from the service as per the version of the management. In a recent decision made in APLJ 2002 (3) page 3 Short notes, in the case of Union of India Vs. P. Mahipal Reddy, W.P. No. 1211 of 1995 wherein Hon'ble Justice L. Narasimha Reddy pronounced his order on 7-8-2002 that "Industrial Disputes Act 1947 Sec.2(A) (II) and Sec.25-F—in proceedings initiated by workman before Industrial Tribunal in a dispute raised under Sec. 2(A) II except reinstatement the Tribunal cannot direct regularization when the incumbent worked for period exceeding 240 days retrenchment without following the provisions of Sec. 25F is illegal." In another case the Chairman Kun Chandra Grama Seva Sahakari Samithi Ltd., Vs. Judge, Labour Court Bikinar and another in 1999 LLR page 1058 Rajasthan High Court that, "termination of an employee having worked for more than one year without payment of retrenchment compensation will be set aside. The Labour Court awarded reinstatement with full back wages to the workman." In other case MCD Vs. Praveen Kumar Jain and others 1998 (II) LLJ page 674 Supreme Court it is held that, "even a daily rated workman discharged from service without complying Sec. 25-F of I.D. Act will be illegal and the workers will be entitled to reinstatement with 50% back wages." In the case of Eswar Chand and others

V/s. Manager Dalmia Dairy Industries 1997 LLR page 366 Rajasthan High Court it is held that "Retrenchment of workman vide retain his juniors will be illegal entitling him to reinstatement." In the case of Mohan Lal Vs. Bharath Electronics Ltd., 1981 3 SCC page 225 held that, "retrenchment without complying with Sec. 25-F would be void ab-initio. Such action would entitle the workman to a declaration for continuation in service with full back wages." In the case of L. Robert D' Souza Vs. Executive Engineer, Southern Railway 1982 1 SCC page 645 and 1982 SCCL & S 124 that, "termination of service for unauthorized absence from duty amounts to retrenchment and therefore the service of even a casual or seasonal workman who rendered continuous service for one year or more cannot be terminated on such ground without comply with the requirements of Sec. 25-F of I.D. Act." And in the case of Jagajeevan Bhimji Vaja Vs. Union of India 1996 1 LLJ 629 that, "the phrase of a seasonal character has not been defined in Industrial Disputes Act. In order to decide whether a particular establishment is of a seasonal character it has to be seen whether it's entire work is seasonal in character. Where only one of the sections of the Industrial establishment workers in a particular season the answer to the question would depend upon various other factors if in other seasons such an industrial establishment continuous to employ a sizable number of workmen out of the total strength of workmen engaged in the factory it cannot be said to be of a seasonal character."

11. In view of the above rulings he submits that the workman is having unquestionable seniority and the contention that he has absconded from duty is false. In fact, he was provided job on daily wages and therefore is entitled for reinstatement with back wages, continuity of service, attendant benefits and costs.

12. It is argued by the Learned Counsel for the Respondents that Ex. W1 is a self-serving document. Even according to him from 1-6-84 to 1-4-97 for a period of 13 years he has worked for 1500 and odd days. There is no other document filed by the Petitioner. From 1-4-97 he has absconded from service and even according to him vide Ex. W1 is written on 25-9-2000 that is after a gap of three years. He admitted too that his juniors who were engaged and continuing in service are regularized with employment exchange as per their seniority. Although he denied he absconded from his service but the very conduct is very clear that from 1-4-97 till 20-3-2001 for a long period of four years he sleeps and then all of a sudden he wakes up after four years. That means he was doing some job and on completion of that job or thinking that he may take a chance he has filed this case. Therefore he does not deserve any sympathy nor the rules provide to help him. MW1 Sri K. Sarveshwara Rao who worked at Rajole from 1993 to 1998

as SDOT deposed that the WW1 absconded from their Rajole SDO in October, 1995. That he had given work to other available workers. The erection of poles, digging of trenches is stopped for the last 4 or 5 years. The work was given on contract basis by the top level management. Now due to satellite system the trenches and digging of poles are not required and accordingly manpower is reduced. That the workman absconded from service on 1-10-95 and not represented either to him or his superior officers for providing job. Till the Petitioner filed this case on 20-3-2001 he has not represented his case either to this SDO office or any other superior authority. MW2 deposed that Ex. M3 shows the seniority list of casual mazdoors as on 31-12-96. That as per Ex. M3 juniors to Petitioner are still working. He therefore prays that he is not entitled to any relief.

13. It is very difficult to say at this point of time and the evidence placed before me that the worker who has self abandoned the service or he was asked not to come from very next day that is 1-4-97.

14. He worked upto April, 1997 that is why his name was shown in seniority list Ex. M3 as on 31-12-96. The contention of the Petitioner is also wrong that he was terminated on 30-6-96. In fact, he has worked up to April, 1997 and there after he himself might not have turned up for job but already he has approached the Hon'ble Central Administrative Tribunal which by order dated 15-3-99 in OA No. 406/99 has already directed where they held, we feel it proper to direct the Respondents to engage them whenever there is work and there is need for reengaging casual labourers instead of engaging freshers from the open market. "No doubt, after their reengagement their cases may be considered in accordance with law for further progress in their cases."

15. Now what was the reason for him to keep quite for four long years ? No doubt, many workers may not know the rules of law but one cannot deny that in the recent past the people are not so naive so as to be completely unaware of their rights. Admittedly there is no representation by the Petitioner for four long years. Even according to Ex. W1, this letter obviously is written a few months before approaching the Labour Court then at Visakhapatnam.

15. No doubt, several Judgements have been filed by the Learned Counsel for the Petitioner. Specially relied on short notes on recent case APLJ 2002(3) Page 3 wherein his Lordship held that a casual workman also is for protection under Sec. 25-F of the I.D. Act. Hence, his Lordship upheld the order of the Tribunal and held that retrenchment is illegal. He also relied on Hon'ble Supreme

Court of India Judgement wherein their Lordships held that Section 25-F was not followed. Hence, they allowed reinstatement with 50% back wages and various other Judgements. In that case the worker was working from June, 1978 and in 1981 he has alleged to conduct misconduct and only after preliminary enquiry he was discharged.

16. Here the only point for consideration is that the workman worked as casual mazdoor from 1-6-84 to 30-6-96. He has sent the notice on 25-9-2000 that is after a long gap of four years. There is nothing on record to show that either he approached any other forum or he approached the Respondent for his alleged retrenchment and it is a matter of record that some of his juniors have been regularized. Therefore, the only conclusion that can be drawn under the circumstances is that either the Petitioner was gainfully employed somewhere else or in agriculture or any other avocation and it is only after his juniors got the job he thought of an idea to approach the Court. Therefore, I hold that question of directing the Respondents to take him back in service, back wages, continuity of service etc. will not arise. However, the Respondents are directed that in future if they engage any casual labour the Petitioner shall be given preference over others taking his date of appointment as 1-6-84. However, a word of caution that even if his juniors are appointed they will not be retrenched or dismissed in view of this order. This order holds good for in future appointment of casual labour.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 29th day of April, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri L. Satyanarayana	MW1: Sri K. Sarveshwar Rao
	MW2: Sri M.S. Prasad

Documents Marked for the Petitioner

Ex. W1 : Copy of notice sent to management by WW1.
Ex. W2 : Copy of Lr. NO. E-19/TSMs/Regls/2001/45
dt. 15-6-2001.
Ex. W3 : Copy of order conferring temp. status to casual
mazdoors dt. 23-8-2000.

Documents Marked for the Respondent

Ex. M1 : Copy of attendance of workers from September,
94 to April, 97.
Ex. M2 : Copy of muster rolls and acquittance register from
1-9-94 to April, 1997.

Ex. M3 : Copy of seniority list of casual mazdoors as on
31-12-96.

नई दिल्ली, 19 जून, 2003

का. आ. 2016.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्केलाजिकल सर्वे ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (सदस्य संख्या सी जी आई टी /एल सी/आर/274/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-42012/42/97-आईआर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2016.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/274/97) of the Central Government Industrial Tribunal-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Archaeological Survey of India and their workman, which was received by the Central Government on 19-06-03.

[No. L-42012/42/97-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT,
JABALPUR

CASE NO. CGIT/LC/R/274/97

Presiding Officer: Shri R.K. Dubey

Shri Raghavendra Singh Bhadoriya

C/O B.S. Jadon Ki Chakki Ke Pass

Mohalla Jaganpura, Laghedi Dager,

Gwalior.

...Applicant

versus

Archaeological Survey of India

Asstt. Supdt. Archaeologist,

Archaeological Museum,

Gwalior Fort,

Gwalior.

....Non-applicant

AWARD

Passed on this 9th day of June 2003

1. The Government of India, Ministry of Labour vide Order No. L-42012/42/97/IRDU Dated 25-9-97 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the management of Assistant Supdt. Archaeological Survey of India in terminating Shri Raghavendra Singh Bhadoriya w.e.f. 4-12-96 is justified? If not what relief the workman is entitled to?"

2. According to the statement of claims filed by the applicant Shri Raghavendra Singh Bhadoriya that he was appointed from 25-5-94 on daily wages. He performed the duty of watchman in the watch and ward section of the non-applicant's Archaeological Museum, Gwalior. Applicant worked continuously upto 7-1-96. No appointment order to the applicant was given. Applicant's services were terminated by oral order on 8-1-96. Therefore the applicant prays that the action of the management in terminating the services of applicant may be declared as illegal and void. Applicant be reinstated in his service with full wages.

3. Non-applicant in his written statement admitted that the applicant employed as watchman or as security guard in the Gwalior Fort. Due to lack of funds, his services was terminated on 8-1-96 but he was re-engaged when the work was undertaken again. It is also submitted by the non-applicant that applicant from time to time appointed only for Limited and fixed period. After some break, he again appointed to the post of watchman. Non-applicant also submitted that the Archaeological Department is not an industry as defined in the Industrial Dispute Act in Section 2 (j). Therefore this case do not comes under the jurisdiction of this Tribunal-cum-Labour Court. It is also prayed by the non-applicant that due to the want of jurisdiction, applicant's claim be rejected and the reference by the Labour Ministry be answered in proper terms.

4. It is clear from the perusal of the record that the applicant's brief history of his service is accepted by non-applicant but first decision on rest the preliminary objection raised by the non-applicant is necessary. In this respect, it is necessary to decide that whether the non-applicant Archaeological Department of India comes in the definition of industry or not?

5. The definition of industry is given by the Industrial Disputes Act 1947 Section 2 (j) is as follows:—

"Industry means any business, trade undertaking, manufacture or calling of employers and includes any calling, service employment handicraft or industrial occupation or a vocation of workman."

6. The Honourable Supreme Court in the Bangalore Water supply and Sewerage Board etc. Versus A.Rajappa and others in 21st February, 1978 explained the meaning of industry in the following words:—

"Whether systematic activity organised by Co-operation between employer and employee, the direct and substantial element is commercial, for the production and/or distribution of goods and services calculated to satisfy human wants and wishes there is an industry in that enterprise."

7. The definition of industry is very clear but we have to see that whether Archaeological Department comes in the definition of industry or not. Archaeological Department is the department established by the Government for the preservation and maintenance of ancient monuments. Ancient monuments cannot be reproduced or remade. It was argued by the applicant's councillor that applicant was engaged and assigned the duty of windowman. The applicant in his duty sale the entry ticket to the visitors for minor charge like Rs. 2. But this small and meagre amount cannot change the nature of the Archaeological Department as already pointed out that the Archaeological Department's main function was preservation of ancient monuments and the reproduction or re-making of ancient monuments are not possible. Meagre amount of Rs. 2 or Rs. 5 which was lived as entry fees is not sufficient to change the nature of Archaeological Department into industry. In my view looking into the functions of the Archaeological Department, Archaeological Department is not an industry within the meaning of Section 2(j) of I.D. Act.

8. The applicants produced judgement of Honourable Supreme Court in SM Nilajkar and Others versus Telecom District Manager, Karnataka, JT. 2003 (3) SC. 436. But the facts of this case is different from the present case. Casual workers in the above mentioned case are working under the Telecom district Manager, Karnataka. Telecom Department is an industry but in the present case, Archaeological Department is not an industry. Therefore the dictum of the Honourable Supreme Court as laid down by the Nilajkar's case is not binding in the present case because this ruling relates only the workers working in the industrial department.

9. After the analysis of the evidence and documents produced by both the parties my view is that the Archaeological Survey of India is not an industry. Therefore this court cannot decide the legality of the order of termination of applicant Mr. Raghavendra Singh Bhadoria.

10. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

R. K. DUBEY, Presiding Officer

नई दिल्ली, 19 जून, 2003

का. आ. 2017.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एल सी./आर/133/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-40012/63/93-आई आर (डी यू)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2017.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/133/94) of the Central Government Industrial Tribunal cum-Labour-Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-40012/63/93-IR (DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
JABALPUR

CASE NO. CGIT/LC/R/133/94

SHRI R.K. DUBEY : Presiding Officer

Shri Prahlad Mishra,
S/o Shri Premlal Mishra
Gram Gaonkhera, Post Hirapur,
Kedia, Teh. Murwara, Jabalpur.

.....Applicant

Versus

The Telecom District Manager,
Jabalpur

The Sub. Divisional Officer,
Phones, Katni
Distt. Jabalpur

.....Non-Applcant

AWARD

Passed on this 11th day of June, 2003

The Government of India, Ministry of Labour vide order No. L-40012/63/93-IR-DU dated 11-8-94 has referred the following dispute for adjudication by this tribunal :—

“Whether the management of Telecom District Manager, Jabalpur is justified in terminating the services of Shri Prahlad Mishra S/o Shri Premlal Mishra, Ex-casual labour w.e.f. 1-5-90? If not, what relief he is entitled to?”

2. Notices were issued to both the parties. The workman filed an application for the withdrawal of the case. The workman heard on the application. It seems that the management again appointed the workman in the service. Due to this reason, the workman wants to withdraw the case. Workman's application for withdrawal of the case is accepted.

3. Workman did not want to conduct the case therefore it seems that the action taken by the management against the workman was justified. The reference sent by the Ministry is answered positively.

4. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

R.K. DUBEY, Presiding Officer

नई दिल्ली, 19 जून, 2003

का. आ. 2018.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एस. टी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, विशाखापत्तनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2003 को प्राप्त हुआ था।

[सं. एल-14025/1/2003-आई आर (डी यू)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 19th June, 2003

S.O. 2018.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.S.T.L. and their workman, which was received by the Central Government on 19-06-2003.

[No. L-14025/1/2003-IR (DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, VISAKHAPATNAM

PRESENT:

SHRI Y. DHILLESWARA RAO, B.A. LL.B :
Chairman & Presiding Officer

DATED : 17th day of May, 2003

L.T.ID (C) 95/2001

BETWEEN:

Kotra Venkata Rama Murthy
S/o. Sri Prasada Rao
C/o. K. Prasada Rao
Type-I Railway Quarters,
No. 69/D, Marripalem,
Visakhapatnam-530018

.....Petitioner/Workman

AND

The Director,
N.S.T.L., NAD Kotha Road,
Visakhapatnam-530009

—Respondent/Management

This is an application filed by the workman under Sec. 2A(2) of I.D. Act for a direction to the management to reinstate him into service with back wages and continuity of service.

This dispute is coming on for final hearing before me in the presence of Sri. K. Balakrishna, Advocate for workman and of Smt. D.V. Lakshmi, Government Pleader for Respondent/Management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following:

AWARD

1. In brief, the workman's case is that he joined the service of management as Casual Labour in the month of March, 1994 and worked continuously not less than 240 days in an year until retrenchment with effect from 16-1-2001. His salary was Rs. 1560/- per month at the time of retrenchment. The job which were required to be performed by the workman is perennial in nature. Workers junior to the workman are retained but workman was terminated from service without assigning any reason and paying compensation. His representation to take him back was of no use.

2. Management filed counter denying the petition allegations. It was contended that the respondent concern is a Research Institute which functions as per statutory provisions. In addition to day-to-day research, Central Government entrusts time bound special projects of national importance. There are no regular sanctioned posts in the respondent concern for those special projects but the said projects are to be completed with existing sanctioned manpower. In order to complete such projects in time the respondent would engage some personnel for doing sundry jobs like shifting of heavy equipment from laboratory to Naval Platforms for sea trial, loading, unloading, shifting of furniture and etc. on payment of daily rates. It was only due to exigency of work, engaged on daily wage rates without considering the age and educational qualification.

3. For appointment on regular basis, prior permission from the Ministry of Defence is required, since the respondent concern is Central Government establishment. The workman was engaged intermittently for doing sundry jobs relating to special projects. The work done by him is not of perennial in nature as such, his service was dispensed with after the work entrusted to him was over. That the petitioner never worked for 240 days or more in any year and also was not drawing Rs. 1560/- per month but he was paid on the basis of nerrick rates on daily basis. That the petition is not maintainable and the petitioner is not a workman.

4. The petitioner filed rejoinder denying the contentions of respondent. According to the petitioner, he worked for more than 240 days in a calendar year. That the work which was carried on by him is perennial in nature and the same is now entrusted to a contractor who engaged 40 persons for the said work. Further some workmen who were juniors to petitioner, are being continued in service by the respondent.

5. For the petitioner, WW1 and WW2 are examined and Exs.W1 to W3 are marked. For respondent, MW1 is examined and Exs.M1 to M3 are marked.

6. Heard both sides. The points that arise for a consideration are:

- (1) Whether the petitioner is a workman?
- (2) Whether the petitioner is entitled for reinstatement with back wages and continuity of service?

7. Point No. 1: Management contended that the petitioner is not a workman. The petitioner who is examined as WW1 has deposed that he worked as a Casual Helper from March, 1994 until termination on 16th January, 2001. He worked for 240 days in a year during that period but he was illegally terminated. During cross-examination, he denied the suggestion that he worked for 3 days in 1994, 19 days in 1995, 100 days in 1996, 52 days in 1997, 74 days in 1998, 24 days in 1999 and that he was appointed on daily wage basis. WW2 is petitioner in ITID(C)80/2001. He deposed similar to MW1 and denied similar suggestions during his cross-examination.

8. The management examined joint director of the management concern as MW1. He admitted, WW1 was taken on daily wage basis for doing sundry jobs. According to him, WW1 never worked for 240 days in any year. On the basis of the above evidence, learned counsel for WW1 argued, WW1 was admittedly engaged by the management as a casual helper as such a person employed on daily wage basis is also a workman. He relied on a decision reported in 2000 (6) ALT at page 689 between Tanuk Municipality and S.Venkateswar Rao and others. On facts, that was a case where a driver of Road Roller appointed on 26-9-1980 was terminated from service on 22-12-1986 on the ground of misconduct. In the I.D. filed by the driver, direction was given to the municipality to reinstate the driver with continuity of service but without back wages. Municipality challenged the award. His Lordship did not agree with the argument advanced on behalf of the Municipality that the driver being a casual labour, is not entitled for reinstatement. His lordship observed, "every person employed in an industry in whatever capacity except in Supervisory cadre has to be considered as workman in the light of the definition of "workman" under Section 2(s) of I.D. Act and the provisions of I.D. Act are applicable."

9. Learned Government Pleader, submitted WW1 is not a workman, as such, the provisions of I.D. Act are not applicable. She relied on a decision reported in 2002 (1)

ALT 134 (DN) S.C. The full text is not available. Further it appears the matter before the Hon'ble Supreme Court was not whether the respondent-employees were workmen or not? It is found while examining Section 12 and 25-F of I.D. Act and A.P. Adoption of Employees of State Government Public Sector Undertakings into Public Service Act, 1997-Board of Industrial and Financial Reconstruction (BIFR), it was observed, "High Court is held to be justified in rejecting the contention that the respondent employees being workmen their services could be retrenched under the provisions of Section 25-F of I.D. Act as the industries in question have become 'sick' when the workmen have become employees of the Government." This decision is no way helpful to the management.

10. The term 'workman' defined U/Sec.2(s) of I.D. Act includes any person employed in any industry, to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward but does not include any person who comes within any of the IV categories enumerated under Section 2(s) of the I.D. Act. Admittedly WW1 worked in the management concern on payment of wages and performed manual and unskilled work. Therefore, WW1 is a workman within the definition. The point is accordingly answered.

11. Point No.2: The term 'retrenchment' is defined Under Sec.2(oo) of Industrial Disputes Act. It runs, "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include A to C categories." The A to C categories are not relevant to the facts of the case on hand. This retrenchment becomes illegal in case conditions provided Under Sec.25-F of I.D. Act are not complied with. It is the basic requirement that a workman should put in continuous service for not less than one year. If this requirement is satisfied, then it is mandatory for the management to give one month's notice in writing giving reasons for the retrenchment or wages paid in lieu of that notice for that period of one month. Management shall also pay retrenchment compensation.

12. The learned Government Pleader argued WW1 failed to prove that he worked continuously for not less than one year. She further submitted burden is on WW1 to prove the same which he failed to discharge. She relied on a decision reported in 2001 ALT at page 651 between G. Agamaiah and Director, N.R.S.A., Hyderabad and Others. Considering Sec. 7(10) (b) of I.D. Act, His Lordship observed the petitioner in that case was not in continuous service for a period of not less than one year and apart from that the petitioner served on daily wages. The petitioner cannot claim right to be regularized in the absence of regular vacancy since he is a daily waged worker. It was ultimately observed by His Lordship, "I am of the considered opinion that the petitioner has no vested right to claim regularization."

13. Learned Government Pleader further argued that there are no sanctioned posts for absorption of WW1. It was only for completion of special project that were entrusted to the management which were to be completed within time limit, the management engaged casual labour for completing that special project. That since there are no special projects at present, there is no work for casual labour, as such, WW1 was disengaged and that does not amount to retrenchment.

14. The learned counsel appearing for WW1 submitted that it is for the management to show actual number of days which WW1 has worked, for the reason management has admitted that WW1 worked during the period from the year 1994 to 1999 and record showing the period of work is available. It is a fact WW1 did not produce any service certificate or salary slips. It is relevant in this context to peruse the evidence of MW1. MW1 admitted during his cross-examination, Factories Laws and Payment of Wages Act are applicable to the organization of management. He further admitted, "There is a record showing the payment made for the work done and that record is available. I can produce the records. Disbursement shall be made to workman by cashier after the sanction." Since it is mandatory under the Factories Laws and Minimum Wages Act, to maintain records of the workman engaged by the management and since those records are very much material, the management ought to have produced them. I do not find any reason for with-holding such material records, since MW1 deposed that he can produce the records, I do not agree with the learned counsel for workman, that the burden is on the management to prove days of work of WW1. But under law, the management is bound to produce such material records and the failure to produce, compels to draw adverse inference that in case those records are produced, they would speak against the management. In fact, a suggestion was given to MW1 that the number of days WW1 worked as stated by him, is nothing but a guess work. The said suggestion was denied. It appears to me MW1 fairly admitted maintenance of attendance register even to casual labour who were engaged for 30 days and that attendance will be recorded at the place of work. But this fairness vanished when he did not produce any scrap of paper showing payment of wages or attendance of WW1.

15. MW1 in the very chief examination stated WW1 worked from 1994 till 1999. He gave the number of days worked in each year. Those days were never 240 days in a year. Taking into consideration of the period from 1994 to 1999 and taking into consideration that there was continuous work during that period and also taking into consideration, management failed to produce available material documents, I hold accepting the whole evidence of WW1 and WW2 that WW1 worked for atleast 240 days in a year all along and the retrenchment without any notice and assigning any reason is illegal. Accordingly this point is answered.

16. The learned Government Pleader argued reinstatement of WW1 cannot be ordered for the reason that there are no special projects so as to engage WW1, that there is no sanction of post by the Central Government. To appreciate the availability of work, it is necessary to peruse the evidence of MW1. MW1 stated during his cross-examination, "there are lot of projects going on in NSTL as on date." When a suggestion was given that one R.V.Apparao, G.Ramu and S.Paradesi were juniors to workman and they are being continued, MW1 replied that he cannot say. But subsequently, he volunteer to say that position was prior to his joining the service. The precise work for which WW1 was engaged even according to MW1 is, for movement of material from one place to another. This particular work of movement of material from one place to another is a continuous process, so long as management undertakes the special projects. Therefore, it cannot be said work done by WW1 is not available at present. In the circumstances, taking into consideration that the retrenchment was illegal and work performed by WW1 is available, the management is directed to reinstate the workman. Since WW1 was engaged on daily wage basis, he is not entitled for any back wages and continuity of service. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court, this the 17th day of May, 2003.

Y. DHILLESWARA RAO, Presiding Officer

APPENDIX OF EVIDENCE WITNESSES EXAMINED

FOR WORKMAN:	FOR MANAGEMENT:
WW1: K.V. R. Murthy	MW1: Manjul Nath Pandey
WW2: J. Appa Rao	

DOCUMENTS MARKED

FOR WORKMAN:

Ex. W1: 27-6-2001: Minutes of conciliation proceedings held on 26-6-2001 before Asst. Labour Commissioner (Central) Visakhapatnam

Ex. W2: Postal acknowledgement

Ex. W3: Requisition for casual helper.

FOR MANAGEMENT

Ex. M1: 25-02-2003: Letter of authorization on behalf of management.

Ex. M2: Circular No. 169/94 dated 28-2-94 issued by Government of India/Ministry of Defence/ New Delhi regarding authorization to officers to sign on all pleadings and other documents.

Ex. M3: 21-12-99: Common order date 21-12-99 in WP Nos. 15186, 15220, 15376, 15364, 15491 and 16459/99.

नई दिल्ली, 20 जून, 2003

का. आ. 2019.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इश्यूरेन्स कंपनी लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चंडीगढ़ के पंचाट (संदर्भ संख्या 167/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-06-2003 को प्राप्त हुआ था।

[सं. एल-17012/60/1996-आई आर (बी-II)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 20th June, 2003

S.O. 2019.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 167/97) of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh as shown in the Annexure in the Industrial Dispute between the management of National Insurance Co. Ltd. and their workman, received by the Central Government on 20-06-2003.

[No. L-17012/60/1996-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-
LABOUR COURT, CHANDIGARH.

PRESIDING OFFICER SH. S.M. GOEL

Case No. ID 167/97

Sh. Ashok Kumar C/o Gurdev Singh, 1139, Sector-15, Panchkula.
Applicant.

V/s

The Regional Manager National Insurance Co. Ltd. SCO: 337-340, I & II floor, Sector 35-B, Chandigarh.

..... Respondent.

REPRESENTATIVES

For the workman : Shri Parveen Garg

For the management : Shri Paul S. Saini

AWARD

(Passed on 3-6-2003)

The Central Govt. Ministry of Labour vide Notification No. L-17012/60/96/IR(BII) dated 5th September 1997 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the National Insurance Co. Ltd. in imposing punishment of removal from service on Shri Ashok Kumar, record Clerk vide their order dated 30-12-94 is legal and justified? If not to what relief the said workman is entitled?"

2. In the claim statement it is pleaded by the workman that he joined the Management as sub staff on 1-8-1971. On account of illness of his father the applicant went on leave on 14-1-1994 and his father expired on 18-1-1994. Due to the death of his father the applicant joined duty on 31-3-1994. The workman again proceeded on leave from 2-5-94 to 17-5-94. During this period the Management served upon him the chargesheet dated 20-5-1994 inter alia alleging therein that he remained on leave for 588 days for the period from 1978 to 1994. Reply to the chargesheet was filed but without appreciating the reply Inquiry Officer was appointed. The Inquiry Officer recorded the statement of the workman under threat and coercion. On the basis of inquiry report disciplinary authority served the show cause notice to which the reply was given by the workman. Without caring for the rules the disciplinary authority vide his order dated 30-12-1994 terminated the service of the workman. It is further pleaded that the charges levelled against the workman had been condoned by the competent authority on 7-7-1994 the punishment of termination was thus unwarranted. The appellate authority also dismissed the appeal of the workman. It is thus prayed that he be reinstated in the service with full back wages.

3. In the Written Statement it is pleaded that the workman has had been in the habit of coming late to the office and was also remaining absent from duty without prior permission or information or sanction of leave. Ultimately the management issued him charge sheet dated 24-5-1994 for remaining absent from duty for 558 days during the period from 1978 to 1994. Reply was not found satisfactory and enquiry officer was appointed and during the enquiry proceedings the workman admitted his guilt and admitted all the charges levelled in the charge sheet dated 24-5-1994. After completion of the enquiry, the enquiry officer submitted his findings. The disciplinary authority served a second show cause notice dated 25-10-1994 alongwith enquiry report. The applicant submitted his reply to the show cause notice and after considering the representation the disciplinary authority imposed the penalty of removal from service. The appeal of the workman to the appellate authority was also dismissed. Therefore, the action of the management in terminating the services of the workman is fully justified and in accordance with the rules. The workman was given full opportunity to defend during the enquiry and the enquiry was conducted in accordance with the principles of natural justice. Therefore, the action of the management in the removal of the workman is fully justified and the workman is not entitled for any relief. The management has, therefore, prayed that the reference may be rejected.

4. The management in the present case submitted the full enquiry report and enquiry proceedings alongwith other documents. Arguments have been heard on behalf of both the parties on the fairness of the enquiry.

5. The learned counsel for the workman has vehemently argued that the leave period as shown in the

charge sheet up to the year 1993 had been sanctioned and regularised as per the rules and only period in dispute is for the year 1994. He has further argued that the period which has been sanctioned or regularised cannot be taken into consideration for imposing punishment and it will amount to double punishment. The learned counsel for the workman also referred me to Rule 18(2) of General Insurance (Conduct, Discipline and Appeal) Rules, 1975 and has argued that an employee who absents himself from duty without leave or overstays his leave, shall not be entitled to draw any pay or allowance during such absence or overstay and shall further be liable to such disciplinary measure as the competent authority may deem necessary. He has further argued that during the period for which the workman remained on such leave, he was already treated for extraordinary leave and taking disciplinary action is not permissible under the law for such leave which has already been regularised by the competent authority. For his arguments he also cited case law reported in 2002(4) S.C.T. 111. He has further argued that once the absence period has been regularised the charge of absence goes automatically. For his arguments he relied on 1998(4) R.S.J. page 343 (S.C.). The learned counsel for the workman also argued that the workman had completed more than 23 years of service and even otherwise the punishment is disproportionate to the alleged misconduct and the workman is entitled for lesser punishment and indulgence of this Court u/s 11-A of the I.D. Act, 1947 and pleaded that workman be reinstated with all benefits including back wages.

6. On the other hand the learned counsel for the management has argued that the enquiry was conducted by adhering to the principles of natural justice and there is no infirmity in the conduct of the enquiry. The workman has admitted his guilt and the workman being the habitual absentee remained for 588 days leave from 1978 to 1994 and that too without getting the same sanctioned from the competent authority and on account of the conduct of the applicant the management was facing the difficulty and the workman was not entitled for reinstatement in service.

7. I have given thoughtful consideration to the contention of the Learned Counsel for both the parties and have also perused the entire inquiry proceeding and all relevant records.

8. It is admitted position that the workman remained on leave for different periods for 588 days during the period 1978 to 1994 and that too without getting the same sanctioned. The applicant has admitted this fact during the course of inquiry. I find that the inquiry has been conducted in fair and proper manner and also in accordance with the principle of natural justice. Learned Counsel for the workman has also failed to pointing me out any such latent or patent infirmity in the enquiry proceedings as may go to the root of the case and also to the advantage of the workman. The learned counsel for the workman also

submitted before me that double punishment cannot be acceptable and for that he has drawn my attention to Rule 18(2) of General Insurance (Conduct, Discipline and Appeal) Rules, 1975. I have gone through this rule. In this rule it has been provided that 'an employee who absents himself from duty without leave or overstays, his leave shall not be entitled to draw any pay or allowances during such absence or overstayal and shall further be liable to such disciplinary measure as the competent authority may deem necessary

Thus the rules itself provides that in addition to other penalties an employee will not be entitled to draw any pay or allowances on overstayal period. He shall further be liable to such disciplinary action as the competent authority may deem it necessary.

9. I am thus of the considered opinion that Rule 18(2) referred above does not come to the help of the workman. So far as the judgment 1998(4) R.S.J. 343 is concerned, I have gone through it. The facts of the judgment referred above are totally different from the facts of the present case. In the judgment the enquiry proceedings were assailed among other grounds. But in this case as I have pointed out no infirmity has been pointed out by the learned counsel for the workman in the conduction of the enquiry. So far as other judgments are concerned [2002(4) S.C.T. 111], the facts of this case are different and I do not feel any need to state any further.

10. I have also considered the submission of the learned counsel for the workman regarding the indulgence of this Tribunal U/S 11-A of the I.D. Act, 1947. I am of the opinion that the workman has committed gross misconduct by absenting himself for so long a period on different occasions without the sanction of any leave. I am therefore, of the opinion that the workman is not entitled for any lienciency. I am therefore, of the opinion, that the workman is not entitled to any relief and he has rightly been removed from service. The reference is answered against the workman. Appropriate authority be informed.

Chandigarh.

3-6-2003

S.M. GOEL, Presiding Officer

नई दिल्ली, 20 जून, 2003

का. आ. 2020.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू बैंक ऑफ इंडिया (पी० एन०बी०) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 56/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-06-2003 को प्राप्त हुआ था।

[सं. एल-12012/401/92-आई आर (बी-11)]

अजय कुमार डैस्क अधिकारी

New Delhi, the 20th June, 2003

S.O. 2020.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 56/95) of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of New Bank of India (P.N.B.) and their workman, which was received by the Central Government on 20-06-2003.

[No. L-12012/401/92-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

CASE No. ID 56/95

SHRI S. M. GOEL : Presiding Officer

Shri J. K. Gupta,
Asstt. Secretary,
New Bank of India Employees Union,
C/o New Bank of India,
Nehru Market, Jammu Tawi.

.....Applicant

Veris

Regional Manager, New Bank of India (PNB)
46 Mall Road, Amritsar.

.....Respondent

REPRESENTATIVES

For the workman : None

For the Management : Sh. S. P. Sharma

AWARD

Passed on 3rd June-2003

The Central Government, Ministry of Labour vide Notification No. L-12012/401/92-I.R. (B. II) dated 21st April, 1993 has referred the following dispute to this tribunal for adjudication :—

“Whether the action of the management of New Bank of India in imposing a punishment of stoppage of one increment permanently of Shri A. S. Pandoh vide their Order No. IRD/DD/1987/dated 26-10-1977 is justified? If not, what relief the workman is entitled to?”

2. None appeared on behalf of the workman. It appears that workman is not interested to pursue with the present reference. In view of the above, the present reference is returned to the Central Government for want of prosecution. Central Govt. be informed.

Chandigarh

3-6-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 23 जून, 2003

का. आ. 2021.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीमेंट कार्पोरेशन ऑफ इण्डिया लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों

के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या 76/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-06-2003 को प्राप्त हुआ था।

[सं. एल-30011/6/92-आई आर (विविध)]

बी. एम. डैविड, अवर सचिव

New Delhi, the 23rd June, 2003

S. O. 2021.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/93) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cement Corporation of India Ltd. and their workman, which was received by the Central Government on 23-06-2003.

[No. L-30011/6/92-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, CHANDIGARH

SHRI S. M. GOEL : Presiding Officer

Case No. ID 76/93

The General Secretary,
Cement Corporation of India Ltd.
Karamchari Union,
Charkhi Dadri-123 306.

....Applicant

V/s.

The General Manager,
Cement Corporation of India Ltd.,
Charkhi Dadri-123 306.

....Respondent

REPRESENTATIVES

For the workman : Sh. B. S. Prabhakar

For the management : Sh. H. N. Mehtani

AWARD

(Passed on 23-05-2003)

The Central Govt. Ministry of Labour vide Notification No. L-30011/6/92-IR(Misc) dated 12th February, 1993 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of the Cement Corporation of India Ltd., Charkhi Dadri in relation to not giving the weightage increment to all workers working in CCI, Unit after taking into account the service rendered by them with the erstwhile DDCL

management is just, fair and legal. If not, what relief the workmen are entitled to and from what date?”

2. In the claim statement the union has pleaded that the Management of CCI has taken over the Charkhi Dadri Cement Unit from the Dalmia Management and all the legal dues of workman remained unpaid at the time of closure by the Dalmia Management. It is further pleaded that it is provided in Section 12 of the Take Over act that all those employees whose names borne the Muster Roll of the closed undertaking of Dalmia Management would be deemed to be the employees of Cement Corporation of India with their past service and recruitment of Ex-employees would be made on the principle of seniority alone. It is also pleaded that second Cement Arbitration Award came into operation w.e.f. 1-1-1982 and para 143 and 144 provides for weightage increment and the closure declared by the Management of Dalmia Dadri Cement Ltd. was illegal and against the provisions of the I.D. Act, 1947. The Union has prayed for the grant of the relief as claimed by them.

3. In the Written Statement it is pleaded by the Management that the case of the 95 employees whose services were retained at the time of closure by the Dalmia Dadri Cement Ltd. was different then those of the present applicants. It was decided to recruit the work force strictly in accordance with the seniority. Only 95 employees were there of the weightage increment as there was no break in service and all other workers who were rehabilitated under the settlement were not entitled for weightage increment. The management has prayed that there is no merit in the reference the same be rejected.

4. Replication was also filed reiterating the claim made in the claim statement.

5. In evidence the union produced Sh. B. S. Prabhakar who filed his affidavit Ex. W1. In rebuttal the Management produced Sh. D. K. Maharania as MW1 who filed his affidavit Ex. M1. No document has been filed by the parties to the dispute.

6. I have heard the Learned Representative of the Union and Learned Counsel for the management and have also gone through the evidence in the case. It is not proved on record by the Union that the workers were the permanent employees of the Management of Dalmia Dadri Cement Ltd. and they were not retrenched and they were among these 95 persons whose services were retained. It is an admitted position that only 95 workers were retained by the management of DDCL at the time of closure. These workers (Petitioners) were not retained and they were retrenched by the management of DDCL. The para 143-144 of the 2nd Arbitration Award has not provided weightage increments for the staff who were retrenched and were not retained by the management of DDCL Ltd. The Union has

also not proved on the record as to how the workers are entitled for the relief claimed by them in the claim statement. Therefore, I find no merit in the present reference and the same is returned against the Union. The reference is disposed off accordingly. Central Govt. be informed.

Chandigarh,

23-5-2003

S. M. GOEL, Presiding Officer,

नई दिल्ली, 23 जून, 2003

का. आ. 2022.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 154/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-6-2003 को प्राप्त हुआ था।

[सं० एल-12011/236/2001-आई आर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd June, 2003

S.O. 2022.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 154/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, which was received by the Central Government on 20-06-2003.

[No. L-12011/236/2001-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, LUCKNOW

PRESENT:

SHRIKANT SHUKLA

I. D. NO. 154/2002

Ref. No. L-12011/236/2001 IR(B-II) dated 16-5-2002

BETWEEN:

Asstt. General Secretary

Bank Employees Union

C/o Bank of Baroda, Charbagh,
Lucknow

(Espousing cause of Brijesh Kumar Yadav)

AND

The Regional Manager

Bank of Baroda, 35-D, Regional Office
Anand Ashram Road,
Bareilly (U.P.) 226001

ORDER

Bharat Sarkar, Shram Mantralaya vide Order No. L-12011/236/2001 IR(B-II) dated 16-5-2002 referred following industrial dispute for adjudication under Rule 10 (Kha) of Industrial Disputes Act, 1947.

“Whether the action of the Management Bank of Baroda in not giving compassionate appointment to Brijesh Kumar Yadav S/o Fakir Chand w.e.f. 3-6-1999 is justified? If not, what relief he is entitled to?”

The copy of aforesaid order was endorsed and communicated by Shram Mantralaya, Govt. of India, Ministry of Labour, New Delhi to Regional Manager, Bank of Baroda, Regional Office, Bareilly and Asstt. General Secretary, U. P. Bank Employees Union C/o Bank of Baroda, Charbagh, Lucknow.

This industrial dispute was registered on 24-9-2002. Since the claimant and opposite party did not file the claim statement as ordered by Government of India, Ministry of Labour, New Delhi, the Presiding Officer ordered the service of notice again.

On 22-10-2002 A/R of the union Sri B. P. Saxena file the authority and sought adjournment. The authorisation letter of Bank of Baroda dated 22-10-2002 was also filed. The next date fixed for filing claim statement was 25-11-2002 and on the said date another authority letter was filed by Sri B. P. Saxena along with adjournment application which was allowed by the opposite party and the next date fixed was 21-1-2003 for filing statement of claim.

A/R of the union Sri B. P. Saxena and Advocate of opposite party Smt. Neeta Mathur appeared on 21-1-2003 and Sri B. P. Saxena again sought adjournment and the next date fixed was 8-4-2003 for filing of claim statement.

On 8-4-2003 Sri B. P. Saxena appeared and urged that Fakir Chand died while in service and his son Brijesh Kumar Yadav to be appointed on compassionate ground and talk of the compromise is in progress, therefore the claim statement could not be filed. On the submissions of the A/R of the union 7-5-2003 was fixed for filing of statement of claim. But on the said date fixed no claim statement was filed by the union and instead another adjournment application was moved which was rejected and it was ordered to the union to file the claim statement within a week otherwise it shall be presumed that union does not want to submit the statement of claim. Thereafter no one turned upon the date fixed. In the circumstances it is not possible for the CGIT-cum-Labour Court, Lucknow to adjudicate the issue referred.

As no statement of claim has been filed it is not possible to adjudicate the reference on merit, accordingly the reference is returned.

3-6-2003

Lucknow

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 25 जून, 2003

AWARD—PART-II

का. आ. 2023.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/133 ऑफ 98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2003 को प्राप्त हुआ था।

[सं. एल-12012/99/98-आई आर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2003

S.O. 2023.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/133 of 1998) of the Central Government Industrial Tribunal-cum-Labour, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workmen, which was received by the Central Government on 25-06-2003.

[No. L-12012/99/1998-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI****PRESENT:**

S.N. SAUNDANKAR, Presiding Officer

Reference No. CGIT-2/133 of 1998

EMPLOYERS IN RELATION TO THE MANAGEMENT OF VIJAYA BANK

The Managing Director,
Vijaya Bank Head Office,
14, M.G. Road,
Bangalore 560 001.

V/s.

Their Workmen

General Secretary,

Vijaya Bank Employees Association,
No. 67, 2nd Floor,
K.H. Road, Shanthi Nagar,
Bangalore-560 027.

APPEARANCES:

FOR THE EMPLOYER : Mr. R.N. Shah, Advocate.

FOR THE WORKMEN : Mr. M.B. Anchan, Advocate.

Mumbai. Dated 4th April, 2003.

By the Interim Award dated 5th February, 2002 this Tribunal held that the domestic inquiry conducted against the workman Shetty was as per the Principles of Natural Justice and the findings of the inquiry officer are not perverse. Consequently as per Section 11-A of the Industrial Disputes Act this Tribunal has to consider whether the punishment of dismissal imposed upon the workman is justified in the context of the action of the management Vijaya Bank. Workman Shetty who was working as Clerk at Fort Branch, Mumbai was dismissed by the management based on the proved charge vide inquiry report dated 22-7-87 for not maintaining absolute integrity and devotion to his duties and acted in a manner unbecoming of an employee of the bank thereby prejudicial to the interests of the bank i.e. involving the bank in serious loss constituting gross misconduct under sub-clause (j) of 19.5 read with clause 19.6 of Chapter XIX of the Bipartite Settlement 1966 in connection with three charge-sheets dated 5-4-86, 5-8-86 and 6-8-86. It is the contention of workman that he was made scapegoat to save the officers of the bank and that action of the management is tainted with victimisation amounting to unfair labour practice. It is contended that the officers whose names appear in the investigation of the C.B.I. have been made free. thereby he was discriminated. It is further contended that the punishment of dismissal is disproportionate. Management's contention is that the punishment imposed on the workman is proportionate considering the gravity of serious misconduct committed by the workman in banking industry where absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee. It is contended that failure to perform duties with diligence, integrity and honesty is acting in a manner unbecoming of a bank employee.

2. Both parties vide purshis (Exhibit-21/22) did not lead oral evidence on the point of punishment. Union filed written submissions (Exhibit-23) and the management bank (Exhibit-24) with copies of rulings. On going through the record, written submissions, and hearing both the counsels at length, I record my findings on the following issues for the reasons mentioned below:—

Issues	Findings
3. Whether the action of the management in dismissing Shetty is justified?	Yes
4. If not what relief the workman is entitled?	As per order below.

REASONS

3. The Learned Counsel for the union Mr. Anchan submitted that to save the officers, bank made the workman

scapegoat and out of victimisation punishment of dismissal has been imposed on him. He urged with force that workman put many years service and that his past record was unblemished and in this context punishment imposed is disproportionate. On the other hand, the Learned Counsel Mr. Shah submitted that penalty imposed must be commensurate with the gravity of the offence charged and that in the case in hand, workman fraudulently issued false cheques and thereafter destroying them put the bank in loss totalling to Rs. 40,000/- and plus for which the only punishment of dismissal is adequate in the sensitive banking industry of which faith is foundation.

4. As stated above, during the proper domestic inquiry serious charges have been proved, therefore it is necessary to see whether the punishment imposed is adequate or not in the light of Section 11-A. So far powers under Section 11-A is concerned, court has to exercise judicially and in accordance with the well settled judicial principles. His Lordship of Bombay High Court in *USV Ltd. V/s. Maharashtra General Kamgar Union & Anr.* 1997 (II) CLR 312 in para 5 observed:

“In *Christian Medical College Hospital Employees' Union & Anr. v. Christian Medical College, Vellore Association & Ors.* the Apex Court after considering its earlier judgment in *Indian Iron & Steel Co. Ltd. v. Their Workmen*, AIR 1958 SC 130 observed that the powers of an Industrial Tribunal to interfere in cases of dismissal of a workman by the management are not unlimited and the Tribunal does not act as Court of appeal and substitute its own judgment for that of the management. The Tribunal will interfere (a) where there is want of good faith; (b) when there is victimization or unfair labour practice; (c) when the management has been guilty of the basic error or violation of the principles of natural justice; and (d) when on the materials before the Court the finding is completely baseless or perverse. Emphasis of the Apex Court was that the Industrial Tribunal or the Labour Court cannot function arbitrarily and interfere with every decision of the management as regards dismissal or discharge of a workman arrived at in a disciplinary enquiry. The power under Section 11-A has to be exercised judicially and the Industrial Tribunal or the Labour Court is expected to interfere with the decision of the management under Section 11-A of the Act only when it is satisfied that the punishment imposed by the management was highly disproportionate to the degree of guilt of the workman concerned. The Industrial Tribunal or for that matter the Labour Court has to give justifiable reasons for its decision.”

The power which Section 11-A has conferred upon the Industrial Tribunal or the Labour Court to substitute a lesser punishment in lieu of the order of discharge or

dismissal has to be exercised judicially and in accordance with the well settled judicial principles and could not have any colour of arbitrariness nor could be based on fanciful reasons. A three Judge Bench of the Apex Court in *Kerala Solvent Extractions Ltd.*, deprecated the increasing tendency of interference by the Labour Court or Tribunal on the question of punishment based on sympathy and extraneous considerations, and observed :—

“In recent times, there is an increasing evidence of this, perhaps well meant, but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the Courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the Courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability.”

5. It is settled position of law that penalty imposed must be commensurate with the gravity of the offence charged. The charge proved as above were certainly grave amounting to gross misconduct on the part of workman. At this juncture, the Learned Counsel Mr. Shah urged with force that the Industrial Tribunal should be very careful before it interferes with the orders made by the bank in discharge of their managerial functions relying on *Syndicate Bank Ltd. V/s. Its Workmen* 1966 II LLJ pg.440. While considering the aspect of punishment past record, tenure of service and the gravity of charge is to be looked into. Since the workman by his misconduct put the bank in loss due to lack of diligence, integrity and honesty unbecoming of a bank employee, therefore looked the matter in the light of the evidence on record and the rulings, punishment of dismissal imposed on the workman can safely said to be proportionate. Consequently bank's action being totally justified workman is not entitled to any relief and his claim being devoid of substance deserves to be dismissed. Issues are answered accordingly and hence the order:

ORDER

The action of the management of Vijaya Bank in dismissing Shri B. Hiriyanna Shetty, Clerk is justified.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 25 जून, 2003

का. आ. 2024.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जोधपुर के पंचाट (संदर्भ संख्या 4/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2003 को प्राप्त हुआ था।

[सं. एल-12012/389/97-आईआर(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2003

S.O. 2024.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/98) of the Industrial Tribunal/Labour Court Jodhpur as shown in the Annexure, in the Industrial Dispute between the management of Punjab National Bank and their workman, which was received by the Central Government on 25-6-2003.

[No. L-12012/389/97-IR (B-II)]

AJAY KUMAR, Desk Officer

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर

पीठासीन अधिकारी : श्रीमती निशा गुप्ता, आर.एच.जे.एस.

औद्योगिक विवाद सं. : 4/98

श्री जयराम जिरिये म. सचिव पंजाब नेशनल बैंक, एम्पलाईज यूनियन परवाना भवन, माधोबाग, जोधपुर

.....प्रार्थी

बनाम

क्षेत्रीय प्रबन्धक, पंजाब नेशनल बैंक, 802 प्रथम तल चौपासनी रोड, जोधपुर

....अप्रार्थी

उपस्थिति :—

- (1) प्रार्थी की ओर से श्री विजय मेहता प्रतिनिधि उप.
- (2) अप्रार्थी की ओर से श्री बी. के. जैन प्रतिनिधि उप.

अधिनिर्णय

दिनांक 20-3-2003

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल.-12012/389/97 आई.आर. (बी. II) दिनांक 31 मार्च,

1998 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

Whether the action of the management of Punjab National Bank in dismissing the services of Sh. Jai Ram w.e.f. 29-2-1996 is legal and justified? If not, to what relief the said workman is entitled?

प्रार्थी ने अपना मांग-पत्र प्रस्तुत करते हुए अभिकथित किया कि प्रार्थी विपक्षी बैंक की डण्डू शाखा में जब स्थाई चपरासी/दफ्तरी के पद पर कार्यरत था तब उसे 3-2-1995 को एक आरोप-पत्र इस आशय का दिया कि उसने नियुक्ति के समय गलत घोषणा की, गलत ट्रांसफर सर्टिफिकेट प्रस्तुत किया तथा गलत जन्म तिथि अंकित की, प्रार्थी ने आरोपों का खण्डन किया, विपक्षी ने आरोपों की पुष्टि के लिए विभागीय जांच कराई, आरोप-पत्र में न तो उन दस्तावेजों का डिस्कलोज किया गया जो कि उसके विरुद्ध प्रयोग में लिये जाने वाले थे न ही उनकी प्रतियां प्रार्थी को दी गई, जांच के समय मूल दस्तावेज भी प्रस्तुत नहीं किये गये, दस्तावेज सत्यापित नहीं थे तथा प्रोपर कस्टडी से भी प्रस्तुत नहीं किये गये 25-8-95 की 13 दस्तावेजों की प्रतियां पेश की गईं लेकिन इन्हें सिद्ध करने के लिए तहसीलदार, कलेक्टर, मुख्य अध्यापक, शाखा प्रबन्धक के बयान नहीं कराये श्रमिक ने इन दस्तावेजों को स्वीकार नहीं किया इसके उपरान्त भी इन दस्तावेजों को सिद्ध मानकर श्रमिक को दोषी मान लिया गया, श्रमिक द्वारा प्रस्तुत गवाहों से कोई जिरह नहीं की गई उनकी साक्ष्य अकादय रही, श्रमिक की साक्ष्य को विश्वसनीय न मानने का कोई कारण नहीं बताया गया, सारी कार्यवाही ऐन एबीनेश्यो वाईड व निष्प्रभावी है, जांच द्विपक्षीय समझौते तथा न्याय के प्राकृतिक सिद्धांतों के प्रतिकूल होने से अवैधानिक है, ऐसी गैर-कानूनी जांच के उपरान्त भी श्रमिक को 29-2-96 के आदेश द्वारा बिना नोटिस सेवा से पृथक कर दिया, सेवापृथकता का आदेश एक नोन स्पीकिंग आदेश है, श्रमिक को सेवापृथक इसलिये किया गया कि वह अपने बचाव में नये दस्तावेज पेश करने में सफल नहीं हुआ, दण्डात्मक आदेश में यह नहीं बताया गया कि श्रमिक को सेवापृथकता का कठोर दण्ड क्यों दिया गया। प्रार्थी का कथन है कि उसने दण्डात्मक आदेश के विरुद्ध 8-4-96 को अपील प्रस्तुत की लेकिन 24-6-96 को उसे निरस्त कर दिया गया अतः उक्त कारणों से प्रार्थी की सेवापृथकता विधि विरुद्ध है। अन्त में निवेदन किया है कि सेवा पृथकता का आदेश निरस्त किया जाकर प्रार्थी को देय वेतन-भत्तों सहित सेवा की निरन्तरता में सेवा में पुनर्स्थापित किये जाने का अधिनिर्णय पारित किया जावे।

अप्रार्थी की ओर से जवाब प्रस्तुत करते हुए कहा गया है कि प्रार्थी ने गलत जन्म तिथि दस्तावेजों में अंकित की एवं गलत घोषणा के आधार पर बैंक में नियुक्ति प्राप्त की, प्रार्थी के विरुद्ध आरोप पूरी तरह से सिद्ध हुये, जांच कार्यवाही पूरी तरह से निष्पक्ष एवं न्यायोचित, नैसर्गिक न्याय के सिद्धांतों को अपनाते हुए की गई तथा उसके विरुद्ध उचित आदेश पारित किया गया है। अतः प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है। अतिरिक्त कथन में कहा है कि प्रार्थी द्वारा बैंक की डण्डू शाखा में अधिनस्थ कर्मचारी के रूप में कार्य ग्रहण किया गया उसके विरुद्ध जिलाधीश बाड़मेर को एक शिकायत की गई कि प्रार्थी ने

फर्जी प्रमाण-पत्र देकर बैंक में नौकरी प्राप्त की है, जिलाधीश द्वारा उक्त मामले की जांच करवाई गई, तहसीलदार शिव को जांच अधिकारी नियुक्त किया गया जिन्होंने मामले की जांच की तथा जिस प्रार्थना-पत्र के आधार पर प्रार्थी ने सेवाग्रहण की थी उसके संबंध में प्रधानाध्यापक खुड़ाला ने अपने पत्र दिनांक 12-2-94 द्वारा सूचित किया कि प्रार्थी ने उनकी पाठशाला में अध्ययन ही नहीं किया जब कि प्रार्थी द्वारा इसी विद्यालय की टी.सी. बैंक को प्रस्तुत की थी जो फर्जी थी एवं इसी आधार पर नौकरी प्राप्त की थी। तहसीलदार शिव ने अपनी जांच में यह पाया कि प्रार्थी ने अपनी शैक्षिक योग्यता एवं जन्म तिथि के संबंध में गलत तथ्य पेश किये गये जो द्विपक्षीय समझौते की धारा 19/5 (एम) के अनुसार घोर अवचार की श्रेणी में आता है। इसी क्रम में जिलाधीश बाड़मेर द्वारा बैंक को प्रार्थी द्वारा फर्जी प्रमाण-पत्र के जरिये नौकरी प्राप्त करने के सम्बन्ध में जांच कार्यवाही की प्रति एवं लिये गये बयान आदि की प्रतियां भेजी जिस पर बैंक द्वारा प्रार्थी को आरोप-पत्र दिनांक 3-2-95 को दिया गया तथा विधिवत् रूप से जांच की गई, जांच अधिकारी द्वारा प्रार्थी को बचाव का पूर्ण अवसर दिया गया तथा नैसर्गिक सिद्धांतों की पालना की गई एवं जांच अधिकारी ने अपनी रिपोर्ट 11-11-95 को अनुशासनात्मक अधिकारी को प्रस्तुत की, अनुशासनात्मक अधिकारी द्वारा भी प्रार्थी को व्यक्तिगत सुनवाई का मौका दिया गया, प्रार्थी ने अपना पक्ष प्रस्तुत किया तथा अनुशासनिक अधिकारी ने प्रकरण का गहन अध्ययन करने के बाद 29-2-96 को प्रार्थी को दोषी पाते हुए तत्काल प्रभाव से बैंक सेवा से बिना नोटिस बरखास्त करने का आदेश पारित किया। उक्त आदेश के विरुद्ध प्रार्थी ने अपील की जो भी पूर्ण सुनवाई के बाद निरस्त की गई प्रार्थी को दिया गया दण्ड उचित है। यह भी कहा है कि यदि न्यायालय इस निष्कर्ष पर पहुंचे कि जांच में कमी है तो उस स्थिति में बैंक को प्रार्थी के विरुद्ध आरोप साबित करने का अवसर दिया जाए। प्रार्थी द्वारा यह भी घोषणा की गई थी कि यदि किसी भी स्तर पर यह पाया जाता है कि उसने अपने शिक्षा के संबंध में कोई वास्तविक सूचना छुपाई है तो उसको अयोग्य घोषित कर दिया जावे बैंक सेवा से हटा दिया जाये। अन्त में निवेदन किया है कि प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है, मांग-पत्र सव्यय खारिज किया जावे।

इस प्रकरण में सर्वप्रथम दोनों पक्षों की बहस जांच की वैधता पर सुनी जाकर दिनांक 20-11-2001 को यह आदेशित किया कि जांच फेरर एवं प्रोपर नहीं है व बैंक को अपनी साक्ष्य पेश करने का अवसर दिया गया। अप्रार्थी की ओर से श्रवणकुमार जोशी, निम्बाराम के शपथ-पत्र प्रस्तुत किये जिन पर प्रार्थी प्रतिनिधि द्वारा जिरह की गई, अप्रार्थी की ओर से दानसिंह राठौड़ का शपथ-पत्र भी प्रस्तुत किया लेकिन उक्त गवाह जिरह हेतु उपस्थित नहीं हुआ अतः उसका शपथ-पत्र साक्ष्य में ग्राह्य नहीं है। प्रार्थी ने मांग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी प्रतिनिधि द्वारा जिरह की गई। अप्रार्थी की ओर से विभिन्न दस्तावेजात की फोटो प्रतियां व मूल प्रतियां प्रस्तुत की गई।

दोनों पक्षों के प्रतिनिधिगण की बसह सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया कि वह विपक्षी के यहां पर चपरासी के पद पर कार्यरत था उस पर यह आरोप लगाया गया कि उसने अपनी जन्म तिथि गलत बताई है और ट्रांसफर सर्टिफिकेट गलत प्रस्तुत किया जिसके आधार पर जांच की जाकर उसे सेवामुक्त कर दिया गया परन्तु जैस नैसर्गिक न्याय के सिद्धांतों की पालना करते हुए नहीं की गई।

विपक्षी द्वारा इसका खण्डन किया गया, न्यायालय के समक्ष घरेलू जांच के सम्बन्ध में बहस की गई और न्यायालय द्वारा अपने आदेश दिनांक 20-10-2001 द्वारा माना गया कि जांच उचित प्रकार नहीं की गई है परन्तु साथ ही बैंक को यह अधिकार दिया गया कि वह न्यायालय के समक्ष आरोप को साबित कर सकता है। ऐसी स्थिति में न्यायालय के समक्ष साक्ष्य ली गई।

प्रार्थी के विरुद्ध यह आरोप है कि उसने गलत ट्रांसफर सर्टिफिकेट पेश किया और गलत जन्मतिथि अंकित की।

इस संबंध में बैंक की ओर से प्रबन्धक श्रवणकुमार जोशी पेश हुए जिनका यह शपथ-पत्र रहा है कि प्रार्थी ने जो टी.सी. प्रस्तुत की वह फर्जी है और उस पर 1-12-62 जो प्रार्थी की जन्म-तिथि अंकित है वह भी गलत है परन्तु अपनी प्रतिपरीक्षा में इस साक्षी का यह कथन रहा है कि प्रदर्श-1 घोषणा में उल्लेखित खाली जगह किस के हाथ की भरी हुई है उसका पता नहीं और प्रदर्श-1 किसके सामने पेश हुआ उसे पता नहीं। इसी प्रकार प्रदर्श-2 टी.सी. किसने पेश किया यह भी यह साक्षी बताने में असमर्थ रहा है। बैंक की ओर से कहा गया कि तहसीलदार द्वारा जांच की गई लेकिन तहसीलदार की जांच रिपोर्ट इस साक्षी ने नहीं देखी है, क्या जांच हुई यह भी यह साक्षी बताने में असमर्थ रहा है। प्रार्थी की क्या वास्तविक जन्म-तिथि है यह इस साक्षी ने नहीं बताया है।

निम्बाराम राजकीय उच्च माध्यमिक विद्यालय शिव के व्याख्याता पेश हुए जिनका यह कथन है कि जयराम के फार्म में क्या जन्म-तिथि लिखी है उन्हें पता नहीं और टी.सी. का रिकॉर्ड उसने नहीं देखा, इसके अतिरिक्त दानसिंह राजकीय प्राथमिक विद्यालय बलाई के प्रधानाध्यापक का शपथ-पत्र प्रस्तुत किया परन्तु वह जिरह हेतु उपस्थित नहीं हुआ।

प्रार्थी द्वारा गलत प्रमाण-पत्र प्रस्तुत किया गया, जन्म-तिथि गलत अंकित की गई यह बैंक को साबित करना था और इसके लिए आवश्यक था कि प्रार्थी ग्राम बलाई में जहां उसने 1-4-62 को प्रवेश लेना कहा है उसका सम्पूर्ण रिकॉर्ड में संबंधित प्रधानाध्यापक के पेश किया जाता परन्तु उक्त स्कूल का कोई रिकॉर्ड या साक्ष्य न्यायालय के समक्ष पेश नहीं हुए हैं जो टी.सी. प्रदर्श-2 पेश हुई है वह जयराम ने पेश की है इस संबंध में स्पष्ट साक्ष्य पेश होनी चाहिये थी परन्तु यह टी.सी. कब व किसके सामने पेश हुई यह बैंक की ओर से साबित नहीं किया गया है। साथ ही यह टी.सी. फर्जी है इसे साबित करने के लिए संबंधित स्कूल खुड़ाल का रिकॉर्ड पेश किया जाना चाहिये था वहां का स्कूलर रजिस्टर पेश होना चाहिये था परन्तु ऐसा कोई रिकॉर्ड भी न्यायालय के समक्ष पेश नहीं हुआ है।

तहसीलदार द्वारा प्रस्तुत प्रकरण में जांच की गई परन्तु तहसीलदार की जांच रिपोर्ट व स्वयं तहसीलदार को न्यायालय के समक्ष पेश नहीं किया गया है। इस प्रकार बैंक की ओर से ऐसी कोई साक्ष्य पेश नहीं हुई है जिसके आधार पर यह माना जा सके कि प्रार्थी द्वारा गलत जन्म तिथि अंकित की गई है या गलत टी.सी. पेश की गई।

बैंक की ओर से यह कहा गया कि प्रार्थी ने अपनी सही जन्म तिथि नहीं बताई है और कोई साक्ष्य पेश नहीं की है परन्तु यह तर्क भ्रामक है, आरोप को साबित करने का भार बैंक पर था, प्रार्थी ने यद्यपि प्रदर्श-4 प्रार्थना-पत्र से इन्कार किया है जो कि सही नहीं माना जा सकता क्योंकि यह प्रार्थना-पत्र प्रार्थी के अतिरिक्त अन्य कोई व्यक्ति पेश नहीं कर सकता और इस पर प्रार्थी का फोटो भी लगा हुआ है लेकिन इसमें वर्णित जन्म तिथि गलत है या टी.सी. गलत है यह साबित करने का भार बैंक पर था और बैंक की ओर से इस संबंध में कोई साक्ष्य पेश नहीं की है। इस प्रकार न्यायालय के समक्ष प्रस्तुत साक्ष्य से यह साबित नहीं हो पाया है कि प्रार्थी द्वारा गलत जन्म तिथि अंकित की गई है या गलत ट्रांसफर सर्टिफिकेट पेश किया गया है और ऐसी स्थिति में इस आधार पर प्रार्थी की जो सेवामुक्ति की गई है वह निःसन्देह ही त्रुटिपूर्ण है और प्रार्थी की सेवामुक्ति का आदेश निरस्त किये जाने योग्य है।

जहां तक पूर्वभूति का प्रश्न है, इस संबंध में यह लिखना उचित होगा कि प्रार्थी की सेवा मुक्ति 29-2-1996 को की गई जब कि यह रेफरेन्स श्रम मंत्रालय द्वारा इस न्यायालय को 31 मार्च, 1998 को प्रेषित किया गया, यह स्थिति भी सही है कि प्रार्थी ने 29-2-1996 से 31 मार्च, 1998 तक की अवधि में अप्रार्थी के यहां काम नहीं किया है अतः समस्त तथ्यों एवं परिस्थितियों को देखते हुए प्रार्थी को रेफरेन्स की तिथि 31 मार्च, 1998 से आदेश की पालना तक 25 प्रतिशत राशि पूर्वभूति के रूप में दिलाई जाती है।

अधिनिर्णय

अतः यह अधिनिर्णित किया जाता है कि अप्रार्थी नियोजक पंजाब नेशनल बैंक द्वारा प्रार्थी जयराम को 29-2-1996 के आदेश से सेवामुक्त करना अनुचित एवं अवैध है। अतः आदेशित किया जाता है कि अप्रार्थी नियोजक प्रार्थी को तुरन्त सेवा में पुनर्स्थापित करें, प्रार्थी की सेवाएं निरन्तर मानी जायेंगी, प्रार्थी अप्रार्थी नियोजक से रेफरेन्स की तिथि 31 मार्च, 1998 से आदेश की पालना तक 25 प्रतिशत राशि पूर्वभूति के रूप में प्राप्त करेगा।

यह अधिनिर्णय आज दिनांक 20-3-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 25 जून, 2003 .

का. आ. 2025.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय नं.-2, मुम्बई के पंचाट (संदर्भ संख्या 2/106 ऑफ 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-06-2003 को प्राप्त हुआ था।

[सं. एल-12011/170/2000-आई आर (बी-II)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 25th June, 2003

S.O. 2025.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/106 of 2000) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure, in the Industrial Dispute between the management of Indian Bank and their workman, which was received by the Central Government on 25-06-2003.

[No. L-12011/170/2000-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2,
MUMBAI

PRESENT:

S.N. SAUNDANKER, Presiding Officer

Reference No. CGIT-2/106 of 2000

EMPLOYERS IN RELATION TO THE
MANAGEMENT OF INDIAN BANK

The Zonal Manager,
Indian Bank,
4th Floor, East Wing,
Raheja Towers,
M.G. Road,
Bangalore-560 001,
(Karnataka State).

V/s.

Their Workmen

The General Secretary,
Indian Bank Empls. Union,
3rd Floor, Varma Chambers,
11, Hornji Street,
Mumbai-400 001.

APPEARANCE:

For the Employer

: Mr. A.K. Jalisatgi,
Advocate.

For the Workmen

: Mr. B.K. Ashok,
Advocate.

Mumbai, Dated 8th May, 2003

AWARD

The Government of India, Ministry of Labour by its Order No. L-12011/170/2000/IR (B-II) dated 18/10/2000 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Indian Bank in terminating the services of Shri Kanoba Shirodkar Sub-staff of their Panaji Branch w.e.f. 1-10-97 is legal and justified? If not, what relief the workman is entitled for?”

2. Workman Shirodkar was engaged by the management Union Bank, Panaji Branch in sub-staff cadre since July '95. Union vide Claim Statement (Exhibit-6) pleaded that workman was working as temporary employee. He was paid Rs.50/-wages per day under voucher. He was active union member and that when union made representation to the bank to confirm the workman in the service, management abruptly terminated him w.e.f. 1-10-97 without issuing notice pay, retrenchment compensation under the provisions of the Industrial Disputes Act and hence his termination being illegal, union averred that the management bank be directed to reinstate him in service with full back wages.

3. Management Bank resisted the claim of union/workman by filing written statement (Exhibit-8) contending that workman was engaged on casual basis during the period from June '95 to September '97 as and when there was need. He was neither selected nor sponsored by the Employment Exchange and that after 1/10/97 he was not engaged as his services were not required therefore, question of his termination does not arise. It is pleaded since workman was engaged on per day basis, giving him notice pay and retrenchment compensation, does not arise. According to bank, it being a public sector undertaking it has to follow the rules and regulations, guidelines for recruitment of employees in various cadres and in that context claim of workman of reinstatement does not stand to reason and consequently his claim being devoid of substance, be dismissed with costs in limine.

4. On the basis of pleadings issues were framed at Exhibit-12 and in that context workman Shirodkar filed affidavit in lieu of Examination-in-Chief (Exhibit-19) and union closed evidence vide purshis (Exhibit-20). Manager of the bank Mr. Hebballi filed affidavit (Exhibit-21) and the management closed evidence vide purshis (Exhibit-25). Union filed written submissions along with copies of rulings (Exhibit-26) and the management (Exhibit-27).

5. On hearing the Learned Counsels for both the parties, perusing the records and the written submissions, I record my findings on the following issues for the reasons mentioned below:

Issues	Findings
1. Whether Shri Shirodkar was retrenched by the bank without compensation as required under Section 25 F of the Industrial Disputes Act?	No.
2. Whether the action of the management of Indian Bank in terminating the services of discontinuing Shri Kanoba Shirodkar sub-staff of their Panaji Branch w.e.f. 1-10-97 is legal and justified?	Bank's action of discontinuing the services of workman is legal and justified.
3. What relief Shri Shirodkar is entitled to?	As per order below.

REASONS

6. According to workman Shirodkar he worked in Sub-staff cadre Panaji Branch since July '95 till September '97, however when union requested the management to confirm him in the service, being an active union member management abruptly terminated his services from October '97 without giving him notice pay, retrenchment compensation as required under Section 25 F of the Industrial Disputes Act, therefore, his termination is illegal and unjustified. Manager Mr. Hebballi denied the same contending that workman was a casual labour, engaged as and when needed, therefore, question of giving him notice pay and retrenchment compensation, does not arise. In cross-examination workman clearly admitted that he was not interviewed for the employment nor he was given appointment letter by the bank and that he was a temporary workman getting wages on daily rated basis. He admitted that he received wages whenever he worked which clearly shows that workmen worked as and when needed.

7. So far completion of 240 days. Manager Mr. Hebballi admits that documents filed with list (Exhibit-24) of the bank mentions in the year 1996 workman had worked 295 days. This document further shows that in the year 1995 he had worked 159 days and 216 days in 1997 and further mentions that in the year 1996 he did not work continuously.

8. Their Lordships in the decision reported in 2001 II CLR pg. 447 observed:

“Daily rated workers have no right to claim regular employment”

The Apex Court in Ahmednagar Zilla Seth Mazdoor Union V/s. Dinkar Rao Kalyan Rao Jagdale and Gram Sevak Prashikshan V/s. Workman employed in Majir Farm Kamgar Union 2001 SCC (L & S) pg. 1189 ruled :

“By virtue of continuing for 240 days and more, labourers in the said case would not acquire the permanent status to be absorbed as regular employees and thereby Section 25 of the I.D. Act would not be affected.”

In case Himanshu Kumar Vidyarthi V/s. State of Bihar AIR 1997 SC 3657 their Lordships of Supreme Court pointed out that :

“The daily wage employee whose services were engaged on the basis of need of work, termination of such employee cannot be construed to be retrenchment.”

It is apparent that workman did not work continuously in the calendar year and that though he worked more than 240 days in the year 1996, since he worked as casual labour on daily wage basis and as and when work arose, for want of vacancy cannot be regularised as held in Mahatma Phule University V/s. Nashik Zilla Sheth Kamgar Union 2001 SCC (L & S) 1180. Their Lordships of the Apex Court observed :

“Even though the workman may be working for a long period of time or more than 240 days would not acquire a permanent status to be absorbed as regular employee as for absorption as regular employee, existence of posts is mandatory and if no post exists, then even though the workers may have worked for a long period of time they cannot be regularised or made permanent.”

9. The Learned Counsel for the management Mr. A.K. Jalisatgi submitted that Indian Bank is a nationalised bank, a public sector undertaking, which has to follow the directions and guidelines issued by the Government of India from time to time, and that rules and regulations are evolved for the recruitment of staff. He submits that workman was not sponsored by Employment Exchange nor he had complied with the recruitment rules and regulations, and that he attempted to seek back door entry which is against the rules, and therefore, his case cannot be considered. Their Lordships of Supreme Court in Delhi Development Horticulture Employees Union V/s. Delhi Administration, Delhi and Ors. (1992) 4SCC 9 ruled:

“It has become a common practice to ignore the Employment Exchange and the persons registered in the Employment Exchanges, and to employ and get employed directly those who are either not registered with the Employment Exchange or who though registered are lower in the long waiting list in the Employment Register. The Courts can take judicial

notice of the fact that such employment is sought and given directly for various illegal consideration including money. The employment is given first for temporary periods with technical breaks to circumvent the relevant rules, and is continued for 240 or more days with a view to give the benefit of regularisation knowing the judicial trend that those who have completed 240 or more days are directed to be automatically regularised. A good deal of illegal employment market has developed resulting in a new source of corruption and frustration of those who are waiting at the Employment Exchanges for years. Not all those who gain such back-door entry in the employment are in need of the particular jobs. Though already employed elsewhere, they join the jobs for better and secured prospects. That is why most of the cases which come the Courts are of employment in Government Departments, Public Undertakings and Agencies. Ultimately it is the people who bear the heavy burden of surplus labour.”

10. The Learned Counsel Mr. B.K. Ashok for the union submitted that this Tribunal vide Award in Reference No. CGIT-2/176 of 1999 dated 16-5-02 in the case of Indian Bank had directed to regularise the workman therein who was a casual labour and the facts in the present case being similar, workman in the case in hand deserves regularisation. I have gone through the said Award which shows workman therein was in the employment of the bank for about 10 years and was recommended for empanelment by the bank whereas, in the case in hand, workman in the bank from 1995—1997 that too a casual labour on need basis, therefore, facts being different that Award is no avail for the union. The Learned Counsel Shri Ashok further urged that the bank recruited workers after disengaging workman and thereby discriminated him. Manager Mr. Hebballi admitted that one Mr. Chavan had come on transfer after discontinuing workman. Workman admits that said Mr. Chavan was permanent employee of the bank, therefore, his case cannot be compared with the workman. Union though averred much on discrimination, has not pointed out specifically on that.

11. Thus considering the evidence as a whole in the light of the decisions referred to above, since workman was a casual labour engaged on need basis and that he did not work continuously for more than 240 days, he was disengaged as no work remained, provisions of Section 25F of the Act does not come into play. Consequently union's claim being devoid of substance deserves to be dismissed. Issues are answered accordingly and hence the order :

ORDER

: The action of the management of Indian Bank in discontinuing the services of Shri Kanoba Shirodkar, Sub-staff of their Panaji Branch w.e.f. 1-10-97 is legal and justified.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 25 जून, 2003

का.आ. 2026.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 247 दिनांक 30-12-2002 द्वारा बैंक नोट मुद्रणालय, देवास (म.प्र.) जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि सं. 22 में शामिल हैं, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 1-1-2003 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 1-7-2003 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/4/97-आइ आर (पी एल)]

जे.पी. पति, संयुक्त सचिव

New Delhi, the 25th June, 2003

S.O. 2026.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 247 dated 30-2-2002 the services in the Bank Note Press, Dewas (M.P.) which is covered by item 22 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 1st January, 2003.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 1st July, 2003.

[No. S-11017/4/9-IR(PL)]

J.P. PATI, Jt. Secy.

नई दिल्ली, 26 जून, 2003

का. आ. 2027.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण-कम-लेबर कोर्ट, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एससी/आर/211/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2003 को प्राप्त हुआ था।

[सं. एल-12012/179/95-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2003

S.O. 2027.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Case No. CGIT/LC/R/211/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 25-6-2003.

[No. L-12012/179/95-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT, JABALPUR

Case No. CGIT/LC/R/211/96

Presiding Officer : SHRI R.K. DUBEY

Shri Kunj Bihari Dubey,
S/o Shri Ramdas Dubey,
Post Jaisingh Nagar,
Distt. Shahdol

Applicant

Versus

The Regional Manager,
SBI, Regional Office,
Station Road,
Shahdol

Non-applicant

AWARD

Passed on this 17th day of June, 2003

1. The Government of India, Ministry of Labour vide order No. L-12012/179/95/IR(BII) dated 2-12-96 has referred the following dispute for adjudication by this tribunal—

"Whether the action of the Regional Manager, SBI Regional Office, Shahdol in terminating the services of Shri Kunj Bihari Dubey, S/o Ramdas Dubey, Daily wage casual sub staff at Jaisinghnagar Branch, Shahdol is legal and justified? If not, what relief the workman is entitled?"

2. During the pendency of the reference, applicant filed an application and submitted that as he has already reinstated in service by the non-applicant management

therefore no dispute of the applicant remains with the non-applicant. The tribunal already accepted this application.

3. In view of this application at present, no dispute of applicant workman remains with the non-applicant management. Therefore No Dispute Award is passed in the answer of the reference. As the workman didnot want any relief, no relief in the shape of wages can be granted to him.

4. Copy of the award be sent to the Ministry of Labours as per rules.

R. K. DUBEY, Presiding Officer

नई दिल्ली, 26 जून, 2003

का. आ. 2028.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एंड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (संदर्भ संख्या 6 ऑफ 1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2003 को प्राप्त हुआ था।

[सं. एल-12012/176/96-आई आर (बी-1)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 26th June, 2003

S.O. 2028.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6 of 1998) of the Central Government Industrial Tribunal No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 25-6-03.

[No. L-12012/176/96-IR (B.I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1 DHANBAD

In the matter of a reference U/S. 10 (1) (d) (2A) of the
Industrial Disputes Act, 1947.

Reference No. 6 of 1998

Parties : Employers in relation to the management of
State Bank of Bikaner & Jaipur, Patna.

AND

Their workmen.

Present : Shri S. H. Kazmi,
Presiding Officer.

Appearances :

For the Employers : None

For the Workman : None.

State : Bihar. : Industry : Coal.

Dated, the 16th June, 2003

AWARD

By Order No. L-12012/176/96-IR (B-1) dated 27-1-98 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of State Bank of Bikaner and Jaipur in not giving special allowance to Sh. S. N. P. Yadav is justified and legal. If not to what relief the workman is entitled?"

2. It is evident from the record that this reference which was registered in the year 1998 is still pending for appearance and for filing of the written statement on behalf of the workman, when in the order of reference itself it finds mentioned very clearly that the party raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses with the Tribunal within 15 days of the receipt of the said order of reference.

On the last, date as it appears a fresh notice under registered cover was sent to the concerned workman for the said purpose, but even then position remained the same and till date none has taken care to appear and take necessary steps.

In view of all the aforesaid it is, thus, clear that the concerned workman has lost interest and does not want to pursue the case any further, may be due to the reason that the dispute no more exists otherwise there does not appear to be any reason why he would have abandoned this case in such a manner. When the person aggrieved or the person at whose instance the present case was referred to this Tribunal for adjudication is himself not interested in pursuing the present case, it would be sheer wastage of time to allow this case remain pending any longer.

This reference, as such, stands finally disposed of.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 26 जून, 2003

का. आ. 2029.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नोर्दन रेलवे, लखनऊ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों

के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर कोर्ट, लखनऊ के पंचाट (संदर्भ संख्या आई.डी. नं० 180/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-06-2003 को प्राप्त हुआ था।

[सं. एल-41011/31/2001-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th June, 2003

S.O. 2029.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 180/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway, Lucknow and their workman, which was received by the Central Government on 25-6-03.

[No. L-41011/31/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

SHRIKANT SHUKLA

PRESIDING OFFICER

I.D. NO. 180/2001

Ref. No. L-41011/31/2001-IR (B-I) dated 11-12-2001

Between

The Divisional Organization Secretary,

Uttar Railway Karmchari Union,

39-II, J, Multy Storeyed Colony

Charbagh, Lucknow-226001

(Espousing cause of Kishan Lal Gaharwal)

And

The Chief Works Manager

Northern Railway Locomotive Workshop, Charbagh,
Lucknow

AWARD

Bharat Sarkar Shram Mantralaya, Ministry of Labour,
New Delhi vide their order No. L-41011/31/2001-IR(B-I)
dated 11-12-2001 has following reference for adjudication
to this Tribunal :

Whether the action of northern Railway, Lucknow in not giving promotion to Kishan Lal Gaharwal on 5-1-1992 as skilled and on 24-2-1998 as skilled GD-II, while his juniors will given, is justified/ If not, what relief the workman is entitled

The workman case is that he was appointed as Khalasi Helper on 26-12-1986 and was promoted to the post of helper khalasi w.e.f. 31-3-88 and is presently working as Khalasi helper in safety cell under SSE/ safety, N.Railway, Loco Workshop, Charbagh, Lucknow which falls under administrative control of Chief Works Manager, Northern Railway, Loco Workshop, Charbagh, Lucknow. Another Workman Jagroopan is junior to Kishan Lal Gaharwal who was appointed on 28-12-86 as Khalasi and was promoted on 1-12-1989 was Khalasi helper. Though Jagroopan was junior to Kishan Lal Gaharwal. He was promoted in skilled grade w.e.f. 15-1-1992 and further promoted w.e.f. 24-2-98 in Gr.II whereas the workman Kishan Lal Gaharwal who is senior to Jagroopan was ignored from his due promotion without assigning any reason. It has further been prayed by Kishan Lal Gaharwal may be held entitled for promotion in skilled grade from 15-1-92 and in Gr.II w.e.f. 24-2-98 with all consequential benefits and his supercession may be set aside.

The management in his Written Statement has stated that there have been vacancies of skilled machinist in Grade 950-1500 in the mill wrightshop. It was decided by the management to have trade test for the post of skilled machinist obtaining the options and willingness of all khalasi/helpers and semi-skilled and thereafter the trade test was to be taken and the workman who succeeds in the trade test be appointed on the post of skilled machanists and the management invited options and willingness from all khalasi helpers through office letter No. 6E Pannel/MTS dated 20-12-91 and in response to the aforesaid letter Sri Irfan Ahmad, Sri Kishan, Sri Jagroopan, Sri Prabhoo Ram, Sri Babu Ram, Sri R.K. Misra khalasi/helper opted and accorded their willingness for the trade test for the post of skilled machinists. The aforesaid letter was circulated in the shop where the workman was working, through Shop Supdt. His Shop Supdt appraised millwright Shop, Loco Charbagh, Lucknow and the claimant, to the effect that the claimant may opt and accord his willingness for the trade test of skill machinist but the workman/claimant neither opted nor accorded his willingness and he did not apply for the trade test. Accordingly the workman i.e. khalasi/helper opted and applied for the trade test to the post of skilled machinist their applications were registered and they were trade tested and on being found successful, they were appointed in grade 950-1500 as skilled machinist. It is alleged that the workman/claimant is not entitled for the skilled grade 950-1500 and even to the scale of 1200-1800 grade II. It is

alleged that present claim statement is misconceived and legally not maintainable and deserves to be rejected.

So far as the case of Jagroopan is concerned it is stated by the management that Jagroopan opted and applied for the trade test and successful in the trade test he was appointed as khalasi/helper w.e.f. 1-12-1989 and in due course he was promoted as skilled machinist on 15-1-92 subsequently he was promoted as Gr-II w.e.f. 24-2-98. Since the claimant did not apply for trade test of skilled machinist he can not claim any promotion in comparison of Jagroopan who opted and applied in the response to the office Letter No. L/6E Panel MTS S/Skilled dated 20-12-1991. It is also alleged the claimant/workman has concealed the material facts and he has not come with clean hands before this tribunal. It is also alleged that the comparative chart given by the workman in para 6 of the claim statement is wrong. The management has further stated the competent authority has considered the representation submitted by the workman and proper reply had already been given to the workman through office letter No. 6E/MTS/Semi skilled dated 3-2-2000. This fact too concealed by the workman who is not entitled for any promotion in comparison of Jagroopan. In additional pleas that the present claim statement through which the cause has been espoused does not come within the purview of the Industrial Disputes Act. It is pointed out that the present claim statement is liable to be rejected. The claim is not legally maintainable.

In reply to Written Statement, of the management the worker has stated that he was never asked to submit his option by the management and the workman never refused to appear in the test for promotion as in skilled grade and in grade II. The workman has not given any refusal to appear in the trade test. The management is required to file refusal before this Tribunal.

The workman has filed affidavit dt. 24-7-2002 in support of his claim statement i.e. paper no. 4 and the management has filed affidavit of Sr.P.O. Loco Workshop, Northern Railway Sri Siya Ram paper no. A2-17.

The workman has not filed any documentary evidence whereas the management has filed following documents;

1. Photocopy of letter No.L-ET/panel/MTS dated 20.12-91 address to Shop Supdt, Millwright Loco Workshop, Charbagh, Lucknow asking for option for the post of skilled machinist/turner in the scale of Rs.950-1200. Paper No. 6/2.

2. Photocopy of letter No. MT/11/91 dated 21-8-91 addressed to Chief Works Manager, Northern Railway, Loco Workshop, Charbagh, Lucknow regarding filling the vacancy of skilled machinist/turner. Paper no. 6/3

The workman has been cross examined by the management on 11-11-2002 and witness of the management

has been cross examined thereafter on 27-3-2003 and 31-3-2003.

Heard Authorised Representatives of the parties and perused the file.

The management has alleged in para 8 of the Written Statement that the present claim statement through which cause has been espoused, does not come within the purview of the Industrial Dispute and in para 9 of the additional pleas of Written Statement. The management has stated that the present case is not a dispute as defined in I.D. Act. 1947, Para II of the Written Statement. It has been stated that the claim statement is legally not maintainable and liable to be rejected with no relief and with special cost to the management.

The management on the aforesaid statement has forwarded no argument. Although the burden on the management.

The workman has stated that Jagroopan is junior to him. The workman has produced following chart in para 6 of the claim statement:

K. L. Gharwal (MTS-40)	Jagroopan (MTS-40)
D.O. Birth - 11-07-56	01-05-59
D.O.Appointment - 26-12-86	28-12-86
As a Khalasi	as a Khalasi
Posted in MTS	Posted in MTS.
Education qualification—	
MA,LLB and ITI trained.	BA and I.T.I, trained
D.O.Promotion -31.03.1988	01-12-1989
As Kh.Helper In MTS	
S.K. Machinist—	15-01-1992
S.K.Gr.II—	24-02-1998

In the aforesaid chart workman has given his date of appointment as 26-12-86 and Jagroopan has 28-12-1986. If the statement of workman is correct then Jagroopan will be judged as junior to workman.

Now first of all it has to be decided whether Jagroopan was actually junior to the workman as alleged by the workman.

K.L. Gharwal in his cross-examination stated that he has not filed the appointment letter of Jagroopan but has stated that his appointment was on 26-12-86 and Jagroopan was appointed on 28-12-86. He has not given the source of his information about date of appointment of Jagroopan.

Whereas the management witness Sri Siya Ram appeared with the service file the then Sr. Personal Officer stated that according to the service book of the worker Kishan Lal Gharwal was appointed on 26-12-86 and Jagroopan was appointed on 22-12-1986. There is no suggestion that the service book maintained by the management is fabricated. Therefore I come to the conclusion that K.L. Gharwal was appointed on 26-12-86 and Jagroopan was appointed on 22-12-86. In the circumstances the Jagroopan is senior to the workman and the allegation of workman is false.

It is admitted fact by the workman in his cross examination that on 20-12-91 he was working in Millwright Shop(Spare cell). He has also admitted that the opposite party invited options for the post of skilled machinist/turner and pasted on the notice board. He has also admitted in the cross examination that after obtaining option the trade test (job test) is being held. He has admitted that trade test was conducted in the year 1991. From the facts and the evidence on record it is admitted fact that the post of skilled machinist/turner is not a post on which the senior helper could automatically be promoted. The vacancy of skilled machinist/turner is being filled from amongst helpers after obtaining their options and job test. Therefore the rule to become a skilled machinist/turner, helper has to pass job test before he could be promoted to the post of skilled/ machinist.

Now the question arises whether the options were invited and job test was conducted.

It may be noticed that the workman Kishan Lal Gharwal has not whispered a word about the rule stated above. He has also not stated that options were invited for trade test. The management on the other hand came out with the allegations that the management decided to have trade test for the post of skilled machinist after obtaining the options and willingness of the all Khalasies helpers and semi skilled and thereafter the trade test be taken and the workman who succeed in the trade test be appointed on the post of skilled machinist and accordingly the management invited options and willingness from all concerned vide letter No. 6E Pannel MTS dated 20-12-1991 and in response to the aforesaid six khalasies opted and accorded their willingness for their test for the post of skilled machinist. The worker availed the opportunity to file the rejoinder in respect of allegation of the management. In reply to the allegations the workman stated that he was never asked to submit his option by the management. It is also stated that the workman has never refused to appear in the trade test for promotion as skilled grade and Gr.II if the workman has given refusal for trade test for promotion in the skilled grade and in Gr.II, the management is require to file the refusal before the Tribunal.

The question is whether options was invited from the khalasies as alleged by the management. The workman

has not denied the fact of circular letter dated 20-12-1991 and the options exercised by six persons whose names are stated in the Written Statement.

Sri Siya Ram, Sr. Personal Officer has been cross examined on behalf of the workman. He has stated that K.L. Gharwal and Jagroopan were khalasi in the Millwright Shop. Sri Siya Ram has corroborated the facts of Written Statement by affidavit A2-17 and has clearly stated in affidavit vide letter No. 6E Pannel MTS 20-12-1991 options and willingness from all khalasies were invited for the trade test for the post of skilled machinist. He has also proved that in response to the said letter Irfan Ahmad, Sri Kishan, Sri Jagroopan and Persuram were promoted in the scale of 950-1500. In cross examination Sri Siya Ram has clearly stated that Jagroopan was promoted on 15-1-1992. For the said promotion the railway administration called for options. He has also stated that the workers were invited to exercise their options on 20-12-1991. The workers were informed through notice pasted on notice board and after receiving the information the workers exercised their options. Since the worker Kishan Lal Gharwal did not opt therefore he was not considered for trade test. Sri Siya Ram has also stated that at the time the notice was issued for calling for option. Shop Supdt. was Sri Shiv Prasad Tewari who retired on 31-1-1998.

Sri Siya Ram has stated that on the basis of option from amongst Khalasies helpers the trade test conducted and khalasies are promoted. Sri Siya Ram has stated that letter dated 20-12-1991 through which the option was invited is paper no. 6/2 which is addressed to Shop Supdt. He has draw attention in another letter dt. 20-8-1991 addressed to Chief Manager Workshop in which request that 10 names of khalasies as per seniority be sent to them for filling of 3 vacancies of machinists/turner.

Sri Siya Ram who has stated in cross examination that he has no information whether workman was given information or not. The Authorised Representative of the workman has suggested that he was not given any notice of exercising this options which has negative by Sr. Personal Officer.

The worker Kishan Lal Gharwal has also stated in his cross examination that the options is invited by fixation of notice on the notice board. But he himself stated that in the year 1991, no notice was fixed on the notice board. But has admitted that about 10 persons exercised their options whereas 70-80 khalasies were there who were to exercise options. On being asked. Has to when the fact was brought the notice about calling of options, the workman stated that he got the information after 2-3 years when Jagroopan informed him. The workman has also showed his ignorance as to how many khalasies exercised their options but admitted that after options the job test is conducted. When

he was questioned as to when the job test was conducted he could not reply said that he cannot say.

From the evidence of the parties it is clear that six khalasies applied for trade test for promotion, out of which 4 were successful. The options are invited. If the options were not invited how could six apply. It means options were invited and after registering the options and considering the vacancies 4 were selected after trade test. The worker's are not to ask to exercise their option alternative refusal. If the refusal is asked then only the worker can call for refusal letter from the management. When option is invited for eligible candidates, then those who exercised their option are considered and others are deemed to have rejected the proposal.

Learned counsel for the opposite party has argued that the post of machinist/turner is neglected post of which normally helpers do not exercised their options and it was this reason that the worker has not exercised his option now once the promoted worker Jagroopan has travelled to the next promoted post, Kishan Lal Gharwal has come forward with the claim of promoted post on the basis of seniority which is not available to him. Considering the argument of both the parties I come to the conclusion that the workman was not entitled to the promotion of scale grade i.e. 950—1500 in old scale w.e.f. 5-1-1992 and further in grade II i.e. 1200—1800

LUCKNOW
18-6-2003

If the worker was so skilled that he could have passed the job test, he must have exercised his option for promotion and must have passed the trade test. Therefore I come to the conclusion that the management was justified in not giving promotion to K.L. Gharwal w.e.f. 5-1-1992 and skilled and as grade II from 24-2-1998. The issue refer to this court is accordingly decided in affirmative and the workman is not entitled to any relief.

SHRIKANT SHUKLA, Presiding Officer
नई दिल्ली, 26 जून, 2003

का. ला. 2030.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की भाग 17 के अनुसूचि में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एंड जयपुर के प्रबंधन के संबंध निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जोधपुर के पंचाद (संदर्भ संख्या 4/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2003 को प्राप्त हुआ था।

[सं. एल-12012/18/2000-आई.आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 26th June, 2003

S.O. 2030.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award 4/2001 of the

Industrial Tribunal/Labour Court, Jodhpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 25-06-2003.

[No. L-12012/18/2000-IR (B-I)]

AJAY KUMAR, Desk Officer

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय

जोधपुर

पीठासीन अधिकारी :— श्रीमती निशा गुप्ता, आर.एच.जे.एस.

औ. वि. (केन्द्रीय) सं. :—4/2001

अखिल भारतीय स्टेट बैंक ऑफ बीकानेर एंड जयपुर कर्मचारी संघ द्वारा एस.बी.बी. जे. सुराणा मार्केट, पाली।

.....प्राधी

बनान

उप महाप्रबन्धक, स्टेट बैंक ऑफ बीकानेर एंड जयपुर अंचल कार्यालय, ए-23 शास्त्रीनगर, जोधपुर।

....अप्राधी

उपस्थिति :—

(1) प्राधी प्रतिनिधि श्री ललित शर्मा उप.

(2) अप्राधी इकतरफा।

अधिनियम

दिनांक 31-3-2003

श्रम मंत्रालय, भारत सरकार ने अपनी अधिसूचना क्रमांक एल. 12012/18/2000 आई. आर. (बी. 1) दिनांक 24-6-2000 से निम्न विवाद वाले अधिनियम इस न्यायालय को प्रेषित किया है।

"Whether the action of the management of State Bank of Bikaner & Jaipur, Jodhpur in not giving promotion to Shri J.P. Ajmera for the post of Special Assistant is legal and justified? If not, to what relief the concerned union is entitled to?"

प्राधी ने अपना मांग-पत्र प्रस्तुत करते हुए अभिकाथित कि कि प्राधी कर्मचारी संगठन एक पंजीकृत व्यवसायिक कर्मचारी संगठन है तथा अप्राधी संस्थान में नियोजित अधिकांश कर्मचारियों का प्रतिनिधित्व करता है। अंचल कार्यालय, जोधपुर ने अपने पत्र दिनांक 11-2-99 के द्वारा जोधपुर अंचल में अवस्थित कतिपय केन्द्रों पर विरोध सहायक के रिक्त पदों को भरने हेतु रिक्तियों अधिसूचित की हैं जिसके चरण सं. 1 में यह स्पष्ट रूप से वर्णित है कि कर्मचारी एक स्थान हेतु भी अपनी

सहमति दे सकता है। उपरोक्त पत्र में वर्णित अनिवार्य पात्रता को ध्यान में रखते हुए जोधपुर अंचल की नसीरुबाद जिला अजमेर शाखा में प्रधान लिपिक के पद पर कार्यरत श्री जे.पी. अजमेरा ने साक्षात्कार माध्यम से भरी जाने वाली रिक्तियों में वर्णित अजमेर स्थान के लिए विशेष सहायक पद की पात्रता हेतु अपनी लिखित सहमति एस.बी.बी. जे.नसीरुबाद को दी, श्री अजमेरा अजमेर नगर के लिए प्राप्त सहमति पत्रों में वरिष्ठतम कर्मचारी है। अप्राथी ने अन्य विरोधी संगठन के दबाव में उनके द्वारा जारी पत्र दिनांक 18-3-99 के अनुसार पूर्व में साक्षात्कार माध्यम द्वारा अजमेर शहर में भरी जाने वाली विशेष सहायक की रिक्ति हेतु दी गई सहमति के बावजूद भी श्री अजमेरा पर पुनः सहमति प्रदान करने हेतु अनुचित दबाव डाला जो कि प्रधान कार्यालय द्वारा जारी परिपत्रों का उल्लंघन है अपितु अनुचित श्रम अभ्यास की श्रेणी में आता है, अप्राथी द्वारा जारी पत्र में ऐसा कोई प्रावधान नहीं है कि साक्षात्कार द्वारा भरी जाने वाली रिक्तियों के लिए एक से अधिक स्थान के लिए सहमति देना अनिवार्य हो। अप्राथी जानबूझकर श्री अजमेरा को उनके विधिक अधिकार से वंचित करना चाहता है एवं उनके स्थान पर विरोधी संगठन के पदाधिकारी को अनुचित लाभ पहुंचाना चाहता है, अप्राथी श्री अजमेरा से बिलाड़ा नगर के लिए रिक्त हुए विशेष सहायक के पद के लिये भी सहमति प्रदान करने हेतु दबाव डाल रहा है जो कि न केवल अनुचित, अवैधानिक है अपितु अनुचित श्रम अभ्यास की श्रेणी में आता है। श्री अजमेरा को अजमेर नगर के लिए अभिज्ञानित विशेष सहायक की रिक्ति के लिए चयन नहीं करना पूर्णतया अवैधानिक एवं अनुचित श्रम अभ्यास है एवं मात्र श्री अजमेरा की संगठनात्मक गति-विधियों को समाप्त करने के लिए किया गया षड्यंत्र मात्र है। अन्त में निवेदन किया है कि अप्राथी के पत्र दिनांक 11-2-99 में साक्षात्कार माध्यम से अजमेर नगर में विशेष सहायक के रिक्त पद पर श्री जे. पी. अजमेरा के स्थान पर अन्य कनिष्ठ कर्मचारी की नियुक्ति को अवैधानिक एवं अनुचित घोषित करते हुए श्री जे.पी. अजमेरा को अजमेर नगर में रिक्त हुए विशेष सहायक के पद पर पदस्थापित कराने का आदेश पारित किया जावे तथा आर्थिक एवं मानसिक क्षति के लिए बीस हजार रुपये का अनुतोष पारित किया जावे।

अप्राथी पर नोटिस की तारीख 7-6-2001 की हो जाने के बावजूद अप्राथी की ओर से कई पेशियों पर कोई उपस्थित नहीं हुआ जिसपर दिनांक 21-11-2002 को अप्राथी के विरुद्ध कार्यवाही इकतरफ़ का आदेश पारित किया गया।

प्राथी जगदीशप्रसाद अजमेरा ने मांग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया तथा दस्तावेजी साक्ष्य में 11-2-99 की अधिसूचना प्रधान कार्यालय जोधपुर का पत्र दिनांक 26 अगस्त 1992, विशेष सहायक के कर्तव्यों को सौंपने की वर्तमान पद्धति, शाखा प्रबन्धक एस.बी.बी.जे. नसीरुबाद का पत्र दिनांक 18-3-99 की फोटोस्टेट प्रतियाँ पेश की गई।

प्राथी प्रतिनिधि की बहस सुनी, पत्रावली का अवलोकन किया।

प्राथी द्वारा यह कहा गया कि जोधपुर अंचल में स्थित केन्द्रों पर विशेष सहायक के रिक्त पदों को भरने हेतु रिक्तियाँ अधिसूचित की गई

और कर्मचारी एक स्थान हेतु अपनी सहमति दे सकता था, नसीरुबाद जिला अजमेर में प्रधान लिपिक के पद पर कार्यरत जे.पी. अजमेरा ने साक्षात्कार हेतु अजमेर स्थान के लिए लिखित सहमति दी परन्तु ऊपर अनुचित दबाव डाला गया कि वे बिलाड़ा नगर के लिए भी सहमति प्रदान करें और फिर श्री अजमेरा को विशेष सहायक की रिक्ति के लिए चयन न कर अनुचित श्रम प्रयास किया है अतः श्री अजमेरा को विशेष सहायक के पद पर पदस्थापित किये जाने का आदेश दिया जाए। इसके सम्बन्ध में जगदीश प्रसाद अजमेरा का शपथ-पत्र प्रस्तुत हुआ।

प्राथी की ओर से अंचल कार्यालय जोधपुर द्वारा जारी पत्र की प्रति पेश हुई है जिसमें यह स्पष्ट किया गया है कि सहमति केन्द्र के लिए मांगी गई और स्पष्ट सहमति दी जाए।

प्राथी का यह कथन है कि उसे अजमेर नगर के अलावा बिलाड़ा नगर के लिए भी सहमति प्रदान करने के लिए बाध्य किया गया और इस संबंध में 18-3-99 के पत्र का उल्लेख किया गया परन्तु 18-3-99 का जो पत्र पेश हुआ है उसमें इस बात का कहीं उल्लेख नहीं है कि प्राथी को बिलाड़ा के लिए भी सहमति देनी है ऐसी स्थिति में प्राथी का यह कथन निराधार है और 18-3-99 के पत्र से इसकी पुष्टि नहीं होती है।

प्राथी का यह कथन है कि उसे नसीरुबाद शाखा प्रबन्धक ने भी दोनों शाखाओं के लिए अपनी सहमति देने के लिए कहा था लेकिन इसकी पुष्टि भी इस पत्र से नहीं होती है। ऐसी स्थिति में प्राथी को बिलाड़ा हेतु सहमति देने के लिए बाध्य किया गया हो ऐसी कोई स्थिति प्रस्तुत नहीं हुई है।

प्राथी का यह कथन है कि नसीरुबाद में वह वरिष्ठतम था परन्तु इसकी पुष्टि भी 18-3-99 के पत्र में नहीं होती, इसमें प्राथी के अतिरिक्त सिद्धानथ सिंह को भी नसीरुबाद में कार्यरत दिखाया गया है।

प्राथी की ओर से एस.सी.सी. 1990 पेज 163 महेन्द्र बनाम स्टेट ऑफ कर्नाटक, एस.सी.सी. 1999 पेज 325 गोपालकृष्ण बनाम एमएए.बैंग, एस.बी.सिविल रिट पिटीशन नं. 1951/2002 के निर्णय पेश किये गये जिसमें कहा गया है कि जो भी नियम होते हैं उनका प्रभाव भूतलक्षी नहीं होता और यदि इनका प्रभाव भूतलक्षी बनाना है तो इनके लिए विशेष प्रावधान किया जाना चाहिए। इनमें प्रतिवादित सिद्धांतों पर कोई विवाद नहीं है परन्तु प्रस्तुत प्रकरण में प्राथी को बिलाड़ा के लिए सहमति देने के लिए बाध्य किया गया हो ऐसा कोई साक्ष्य नहीं है, साथ ही प्राथी वरिष्ठतम कर्मचारी रहा हो ऐसी कोई स्थिति नहीं है। प्राथी से कनिष्ठ किस कर्मचारी की नियुक्ति की गई ऐसी कोई स्थिति भी प्रस्तुत नहीं हुई है। शपथ-पत्र में भी इस स्थिति को स्पष्ट नहीं किया गया है कि उससे कनिष्ठ किस कर्मचारी की नियुक्ति की गई।

इस प्रकार प्राथी यह बताने में असमर्थ रहा है कि उसे विशेष सहायक के पद पर पदोन्नति न देना किस प्रकार अनुचित और अवैध है। अतः प्राथी कोई अनुतोष पाने का अधिकारी नहीं है।

अधिनिर्णय

अतः यह अधिनिर्णित किया जाता है कि प्राथी श्री जे.पी. अजमेरा यह बताने में असमर्थ रहा है कि उसे विशेष सहायक के पद पर पदोन्नति

न देना किस प्रकार अनुचित और अवैध है। अतः प्रार्थी, अप्रार्थी स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर, जोधपुर से कोई राहत प्राप्त करने का अधिकारी नहीं है।

यह अधिनिर्णय आज दिनांक 31-3-2003 हो खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 26 जून, 2003

का. आ. 2031.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जोधपुर के पंचाट (संदर्भ संख्या 12/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-06-2003 को प्राप्त हुआ था।

[सं. एल-12012/180/99-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 26th June, 2003

S.O. 2031.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award 12/99 of the Industrial Tribunal/Labour Court, Jodhpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 25-06-2003.

[No. L-12012/180/99-IR (B-I)]

AJAY KUMAR, Desk Officer

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय

जोधपुर

पीठासीन अधिकारी :—श्रीमती निशा गुप्ता, आर.एच.जे.एस.

औ. वि. (केन्द्रीय) सं. :—12/99

यशवन्तसिंह पुत्र श्री गोविन्द सिंह निवासी गुंदी का मोहल्ला तुरों की गली, जोधपुर।

.....प्रार्थी

बनाम

1. प्रबन्ध निदेशक एस.बी.बी.जे. प्रधान कार्यालय तिलक मार्ग, जयपुर।
2. शाखा प्रबन्धक, एस.बी.बी.जे. जालोरीगेट, जोधपुर।

....अप्रार्थी

उपस्थिति :—

- (1) प्रार्थी की ओर से श्री के.एस. चौहान प्रतिनिधि
- (2) अप्रार्थीगण की ओर से श्री जगदीश व्यास प्रतिनिधि

अधिनिर्णय

दिनांक 13-3-2003

श्रम मंत्रालय, भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल-12012/180/99-आई.आर. (बी-1) दिनांक 13-8-1999 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

“Whether the action of the management of State Bank of Bikaner & Jaipur, in terminating the service of Shri Yashwant Singh S/o Shri Govind Singh Ex casual workman w.e.f. June 94 is legal and justified. If not what relief the concerned workman is entitled to?”

प्रार्थी ने अपना मांग-पत्र प्रस्तुत करते हुए अधिकथित किया है कि उसे सर्वप्रथम अप्रार्थी बैंक में नवम्बर 1989 में चपरासी के कार्य पर दैनिक वेतन भोगी के रूप में लगाया गया, प्रार्थी ने अपना कार्य निष्ठा ईमानदारी से किया, अप्रार्थी द्वारा प्रार्थी से पूरे महीने कार्य लिया जाता रहा तथा वेतन चैक द्वारा अदा किया जाता रहा जो प्रार्थी के बचत खाता सं. 30253 में जमा होता रहा, प्रार्थी ने जून 1994 तक नियोजक बैंक की जालोरीगेट शाखा में निरन्तर कार्य किया, प्रार्थी ने जून 1993 से जून 1994 तक नियोजक के यहाँ लगातार कार्य किया तथा प्रार्थी को वेतन किसी अन्य नाम से अदा किया जाता रहा, अप्रार्थी सं. 2 ने जून 1994 में मौखिक आदेश से काम पर आने से मना कर दिया जिसका कोई लिखित आदेश नहीं दिया न ही कोई नोटिस या नियमानुसार मुआवजा ही अदा किया, प्रार्थी ने 1989 से 1994 तक अप्रार्थी बैंक में कार्य किया-लेकिन उसे कभी भी वार्षिक देय बोनस अदा नहीं किया अतः प्रार्थी उक्त अवधि की बोनस राशि भी प्राप्त करने का अधिकारी है, प्रार्थी द्वारा अप्रार्थी से बार-बार निवेदन करने के उपरान्त भी जब उसे सेवा में नहीं लिया तब प्रार्थी ने अपने अधिवक्ता के मार्फत दिनांक 21-1-98 को एक नोटिस दिया व तत्काल नौकरी पर लेने को कहा व बकाया वेतन के भुगतान की मांग की परन्तु अप्रार्थी ने न तो प्रार्थी को नौकरी पर लिया न ही बकाया वेतन एवं बोनस का भुगतान ही किया। प्रार्थी की सेवा समाप्ति छंटनी की परिभाषा में आती है, अप्रार्थी ने सेवा समाप्ति से पूर्व प्रार्थी को एक माह का नोटिस, नोटिस वेतन व छंटनी मुआवजा अदा नहीं किया अतः अप्रार्थी द्वारा धारा 25-एफ औ. वि. अधिनियम का उल्लंघन किया गया है अतः सेवा समाप्ति की कार्यवाही गैर कानूनी है। प्रार्थी का यह भी कथन है कि उसने एक वर्ष में 240 दिन से अधिक कार्य किया है लेकिन उसे मौखिक आदेश से सेवापृथक करने से पूर्व सुनवाई का अवसर नहीं दिया। प्रार्थी से कनिष्ठ व्यक्ति जगदीश तंवर 25-1-97 से नियोजक के यहां कार्यरत है लेकिन प्रार्थी वरिष्ठ होते हुए भी उसे सेवा से पृथक किया और कनिष्ठ को सेवा में बनाये रखते हुए प्रार्थी को अकारण ही सेवापृथक कर दिया जो अनुचित एवं अवैध है। अन्त में निवेदन किया है कि अप्रार्थी के मौखिक आदेश से प्रार्थी के सेवापृथकीकरण को अनुचित एवं अवैध घोषित किया जाकर प्रार्थी की सेवा की निरन्तरता में पूर्ण पूर्ण भूति सहित सेवा में पुनर्स्थापित किये जाने का अधिनिर्णय पारित किया

जावे, प्रार्थी को वर्ष 1989 से 1994 तक की बोनस राशि एवं अन्य लाभ जो नियमानुसार देय है दिलवाये जावे।

अप्रार्थी की ओर से जवाब पेश करते हुए प्रारम्भिक आपत्तियों में कहा है कि अप्रार्थीगण द्वारा प्रार्थी को चपरासी के पद पर सेवा में 1989 में अथवा अन्य किसी तारीख को नियुक्ति नहीं दी गई न ही प्रार्थी द्वारा अप्रार्थी बैंक के नियोजन में कोई कार्य किया, प्रार्थी एवं अप्रार्थी के बीच कभी भी नियोजक एवं नियोक्ता का कोई सम्बन्ध स्थापित नहीं हुआ अतः इस प्रकरण में औद्योगिक विवाद अधिनियम के प्रावधान लागू नहीं होते, अप्रार्थी बैंक सार्वजनिक बैंक है जिसमें किसी भी पद पर नियुक्ति के लिए प्रक्रिया निर्धारित है, प्रार्थी द्वारा चपरासी के पद पर नियुक्ति हेतु कोई आवेदन-पत्र प्रस्तुत नहीं किया न ही नियमों के अनुसार निर्धारित प्रक्रिया के तहत चपरासी के पद पर दैनिक वेतन भोगी के रूप में कोई नियुक्ति दी गई, अप्रार्थी द्वारा प्रार्थी की कोई नियुक्ति-पत्र जारी नहीं किया न ही वेतन राशि का भुगतान ही किया, प्रार्थी अप्रार्थी बैंक का कभी कर्मचारी नहीं रहा। बैंक व कर्मचारियों के संबंध में द्विपक्षीय समझौते के अनुसार निर्धारित होते हैं जिसके तहत बैंक द्वारा किसी चपरासी को दैनिक वेतन पर रखे जाने का प्रावधान नहीं है। विशेष कथन में कहा है कि बैंक में कर्मचारियों की नियुक्ति के संबंध में एक निश्चित प्रक्रिया है जिसके अनुसार चपरासी के पद पर नियुक्त होने वाले व्यक्ति को आठवीं कक्षा उत्तीर्ण होने की अवस्था में ही नौकरी पर रखा जा सकता है, साथ ही निश्चित आयु व रोजगार कार्यालय द्वारा नाम प्रेषित करने के उपरान्त बैंक द्वारा एस. सी./एस. टी. के रोस्टर को दृष्टिगत रखते हुए वैकेंसी अनुसार रख सकता है अन्यथा नहीं। आगे जवाब में कहा गया है कि प्रार्थी को अप्रार्थीगण बैंक की जालोरीगेट शाखा में कभी भी चपरासी के पद पर नियुक्त नहीं किया, प्रार्थी ने कभी भी अप्रार्थी के यहां स्थाई अथवा अस्थायी रूप से कार्य नहीं किया न ही प्रार्थी अप्रार्थी बैंक का कर्मचारी है, प्रार्थी द्वारा अप्रार्थी बैंक की जालोरीगेट शाखा में यदा-कदा आवश्यकता पड़ने पर अक्टूबर 1989 से अप्रैल 1994 की अवधि में आकस्मिक मजदूरी के कार्य जैसे रिकार्ड एवं लेखा सामग्री जमाना तथा बैंकिंग हॉल की सफाई का कार्य किया जिसकी मजदूरी का भुगतान अप्रार्थी द्वारा प्रार्थी को किया गया, जब प्रार्थी एवं अप्रार्थी के मध्य नियोजक एवं कर्मचारी का संबंध ही स्थापित नहीं हुआ है तो प्रार्थी को कोई लिखित अथवा मौखिक कार्य संबंधी शिकायत-पत्र देने का अथवा प्रार्थी के विरुद्ध अनुशासनात्मक कार्यवाही करने का प्रश्न ही उत्पन्न नहीं होता। प्रार्थी द्वारा अपने प्रार्थना-पत्र के साथ वेतन की जो सूची पेश की गई है वह गलत है, प्रार्थी ने नियोजन रजिस्टर में कभी अपनी हाजरी अंकित नहीं की, प्रार्थी द्वारा अप्रैल 1993 के पश्चात् अप्रार्थी बैंक की जालोरीगेट शाखा में आकस्मिक मजदूरी के रूप में कोई कार्य नहीं किया गया इसलिये उसे मौखिक आदेश से काम पर आने से मना करने का प्रश्न ही उत्पन्न नहीं होता, प्रार्थी व अप्रार्थी के मध्य कभी कर्मचारी एवं नियोजक का संबंध नहीं रहा अतः बोनस अदा करने का प्रश्न ही उत्पन्न नहीं होता, प्रार्थी द्वारा बोनस राशि की जो मांग की गई है वह अनुचित एवं अवैध है, जब अप्रार्थी बैंक द्वारा प्रार्थी को नियुक्ति ही नहीं दी गई तो प्रार्थी को सेवामुक्त करने का कोई प्रश्न ही उत्पन्न नहीं होता, प्रार्थी के अधिवक्ता के नोटिस का समुचित जवाब

27-3-98 को प्रेषित किया गया, अप्रार्थी द्वारा औ. वि. अधिनियम की धारा 25-एफ का कोई उल्लंघन नहीं किया क्योंकि प्रार्थी को न तो कोई नियुक्ति दी गई न ही सेवामुक्त किया गया, प्रार्थी अप्रार्थी बैंक कर्मचारियों पर लागू होने वाले सेवा नियमों के तहत कोई लाभ प्राप्त करने का अधिकारी नहीं है। अप्रार्थी बैंक द्वारा 25-1-97 को जगदीश तंवर नामक व्यक्ति को नियुक्ति नहीं दी गई। अन्त में निवेदन किया है कि प्रार्थी का प्रार्थना-पत्र सव्यय खारिज किया जावे।

प्रार्थी ने मांग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी प्रतिनिधि द्वारा जिरह की गई। अप्रार्थी की ओर से सुरतसिंह शेखावत, ए. पी. सिंघल, सुरेन्द्रकुमार भाटी के शपथ-पत्र प्रस्तुत किये जिन पर प्रार्थी प्रतिनिधि द्वारा जिरह की गई। प्रार्थी व अप्रार्थी की ओर से विभिन्न दस्तावेजात की फोटो स्टेट प्रतियाँ प्रस्तुत की गईं।

दोनों पक्षों के प्रतिनिधीगण की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया कि उसने नवम्बर 1989 से विपक्षी के यहां दैनिक वेतन भोगी के रूप में काम किया है, जालोरीगेट शाखा में जून 1993 से जून 1994 तक लगातार काम किया, जून 1994 में उसे मौखिक आदेश से सेवामुक्त कर दिया जो त्रुटिपूर्ण है।

विपक्षी द्वारा यह कहा गया कि उसके व प्रार्थी के बीच नियोक्ता व कर्मकार का कोई सम्बन्ध नहीं है। प्रार्थी को कभी-कभी आकस्मिक कार्य होने पर तय मजदूरी के आधार पर काम कराया गया है और उसका भुगतान किया गया है। प्रार्थी ने अपनी प्रतिपरीक्षा में यह स्वीकार किया है कि उसका कोई परीक्षा या साक्षात्कार नहीं हुआ था, उसे मौखिक आदेश से रखा गया था जब कि विपक्षी का यह स्पष्ट कथन है कि बैंक में कर्मचारी रखने की एक निश्चित प्रक्रिया है और उस प्रक्रिया के बिना किसी की नियुक्ति नहीं की जा सकती।

विपक्षी की ओर से प्रदर्श-1 से प्रदर्श-146 प्रार्थना-पत्र व वाउचर पेश हुए हैं इन पर अपने दस्तखतों को प्रार्थी ने स्वीकार किया है और इससे यह स्थिति स्पष्ट होती है कि प्रार्थी ने समय-समय पर विपक्षी के यहां रिकार्ड जमा कराने, सफाई करने, स्टेशनरी साफ करने आदि का काम किया है और उसके लिए भुगतान हेतु प्रार्थना-पत्र पेश किये हैं और इसी कार्य के लिए प्रदर्श-76 से प्रदर्श-146 वाउचर्स द्वारा भुगतान हुआ है। स्वयं प्रार्थी ने अपनी प्रतिपरीक्षा में यह स्वीकार किया है कि उसे विशिष्ट काम पर भुगतान किया जाता था, इसका यह भी कथन है कि उसे 600/- रुपये महीना वेतन मिलता था परन्तु प्रदर्श-76 से 146 जो वाउचर्स पेश हुए हैं उससे यह स्थिति पूरी तरह गलत साबित होती है कि प्रार्थी को कोई निश्चित वेतन दिया जाता था बल्कि जो रिकार्ड पेश हुआ है उससे यह स्पष्ट है कि प्रार्थी ने कभी-कभी बैंक में कोई निश्चित काम किया है और निश्चित धनराशि उसे इसके लिए दी गई है।

प्रार्थी का यह कथन है कि उसने ठेके पर भी काम किया है तब भी वह कर्मकार की परिभाषा में आयेगा और अपने समर्थन में ए. आई. आर. 1957 एस. सी. पेज 264 धारंगधरा केमिकल वर्क्स लि. बनाम सौराष्ट्र राज्य का विनिश्चय पेश किया परन्तु उक्त विनिश्चय में ही इस

स्थिति को स्पष्ट किया गया है कि कर्मकार पर नियोक्ता का कन्ट्रोल है या नहीं और उनके मध्य नियोक्ता और कर्मकार का सम्बन्ध स्थापित हुआ है या नहीं, तथ्यों का प्रश्न है और इस पर प्रकरण की समस्त परिस्थितियों पर विचार करने के पश्चात् निर्णय किया जायेगा। प्रस्तुत प्रकरण में जो दस्तावेजात पेश हुए हैं उनसे यह स्थिति पूरी तरह स्पष्ट है कि प्रार्थी विपक्षी के यहाँ कभी भी लगातार कार्यरत नहीं रहा बल्कि केवल निश्चित कार्य निश्चित भुगतान पर उसके द्वारा किया गया है।

विपक्षी की ओर से एफ.एल.आर. 2002(95) पेज 205 बालुभाई जी. मकवाना बनाम गुजरात राज्य का विनिश्चय पेश किया जिसमें निश्चित अवधि के लिए नियुक्ति दी गई थी तब भी सेवामुक्त को छंटनी नहीं माना गया, यहाँ तो निश्चित अवधि के लिए भी नियुक्ति नहीं है। इसी क्रम में एफ.एल.आर. 2003(96) पेज 532 डिस्ट्रीक्ट एनीमल हसबेन्ड्री ऑफिसर, बुंदी बनाम जज लेबर कोर्ट कोटा का विनिश्चय पेश किया।

विपक्षी की ओर से एफ.एल.आर. 2001(91) पेज 824 प्रमोद कुमार बनाम बिहार राज्य का विनिश्चय पेश किया जिसमें प्रार्थी को कभी भी नियुक्ति आदेश नहीं दिया गया था, उसने बैंक में कभी भी जोईनिंग रिपोर्ट नहीं दी थी ऐसी स्थितियों में उसे श्रमिक नहीं माना गया, यही स्थिति प्रस्तुत प्रकरण में है।

प्रार्थी की ओर से जो कार्यदिवसों का विवरण पेश हुआ है उसमें उसने मई 1993 तक का विवरण पेश किया है जब कि माँग-पत्र में उसका यह कथन रहा है कि उसने जालोरीगेट शाखा में जून 1994 तक काम किया और जून 1994 में उसे सेवामुक्त किया गया परन्तु कार्यदिवसों के विवरण में 1994 में प्रार्थी ने काम किया हो ऐसी स्थिति साबित नहीं होती। प्रार्थी की ओर से ही 21-1-98 को उसके अधिवक्ता ने विपक्षी को नोटिस दिया है जिसमें प्रार्थी ने केवल जून 1993 तक काम करना कहा है। इस प्रकार प्रार्थी ने जून 1994 तक विपक्षी के यहाँ काम किया हो, यह स्थिति स्वयं उसके ही दस्तावेजात से गलत साबित हो जाती है

और ऐसा प्रतीत होता है कि केवल अनुतोष पाने के उद्देश्य से प्रार्थी ने यह उल्लेख किया है कि उसने जून 1993 से जून 1994 तक विपक्षी के यहाँ काम किया। इस प्रकार जून 1994 तक प्रार्थी ने काम किया हो और जून 1994 में उसे सेवामुक्त किया गया हो, यह स्थिति भी प्रार्थी की साक्ष्य से साबित नहीं है बल्कि यह स्पष्ट होता है कि जो निश्चित काम किया गया यह भी मई 1993 तक ही किया गया ऐसी स्थिति में भी प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है।

विपक्षी की ओर से डी.बी. सिविल स्पेशल अपील नं० 930/2001, सिविल रिट पिटीशन नं० 4600/2000, सिविल रिट पिटीशन नम्बर 1961/2000, के निर्णय और ए.आई.आर. 2001 एस.सी. 2401 सैन स्टील प्रोडक्ट्स बनाम नेपालसिंह का विनिश्चय पेश किया जिसमें अनुतोष के सम्बन्ध में क्या स्थिति होगी इसका उल्लेख किया गया है। परन्तु प्रस्तुत प्रकरण में प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है अतः यह विनिश्चय कोई प्रभाव नहीं रखता।

इस प्रकार उपरोक्त विवेचन से यह स्थिति स्पष्ट है कि प्रार्थी यह साबित करने में असमर्थ रहा है कि यह विपक्षी के यहाँ कर्मकार था और उसे जून 1994 में सेवामुक्त किया गया ऐसी स्थिति में प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

अधिनिर्णय

अतः यह अधिनिर्णित किया जाता है कि प्रार्थी यशवन्तसिंह पुत्र श्री गोविन्दसिंह यह साबित करने में असमर्थ रहा है कि वह विपक्षी के यहाँ कर्मकार था और उसे जून 1994 में विपक्षी स्टेट बैंक ऑफ़ बीकानेर एण्ड जयपुर द्वारा सेवामुक्त किया गया, ऐसी स्थिति में प्रार्थी अप्रार्थी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

यह अधिनिर्णय आज दिनांक 13-3-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश